

## SUPPLEMENT—(Continued).

Number of Bill or Resolu- tion	Date Filed	Vote	
		House	Senate
S. J. R. No. 2.....	May 26, 1933..... 11:00 a. m.	Yeas 120 Nays 6	Yeas 25 Nays 0
S. C. R. No. 39.....	May 26, 1933..... 11:00 a. m.	Adopted	Adopted
S. C. R. No. 58.....	May 26, 1933..... 11:00 a. m.	Adopted	Adopted
S. C. R. No. 63.....	May 26, 1933..... 11:00 a. m.	Adopted	Adopted
S. C. R. No. 67.....	May 26, 1933..... 11:00 a. m.	Adopted	Adopted
S. C. R. No. 69.....	May 26, 1933..... 11:00 a. m.	Adopted	Adopted
S. C. R. No. 72.....	May 26, 1933..... 11:00 a. m.	Yeas 108 Nays 0	Adopted
S. C. R. No. 73.....	May 26, 1933..... 11:00 a. m.	Passed by viva voce vote	Adopted
S. B. No. 148.....	May 26, 1933..... 11:00 a. m.	Yeas 105 Nays 0	Yeas 21 Nays 4
S. B. No. 242.....	May 26, 1933..... 11:00 a. m.	Yeas 114 Nays 6	Yeas 27 Nays 0
S. B. No. 357.....	May 26, 1933..... 11:00 a. m.	Yeas 107 Nays 0	Yeas 29 Nays 0
S. B. No. 426.....	May 26, 1933..... 11:00 a. m.	Yeas 106 Nays 0	Yeas 27 Nays 0
S. B. No. 434.....	May 26, 1930..... 11:00 a. m.	Yeas 103 Nays 0	Yeas 30 Nays 0
S. B. No. 478.....	May 26, 1933..... 11:00 a. m.	Yeas 106 Nays 0	Yeas 30 Nays 0
S. B. No. 515.....	May 26, 1933..... 11:00 a. m.	Yeas 112 Nays 0	Yeas 28 Nays 0

W. W. HEATH, Secretary of State.

## SEVENTY-FIFTH DAY.

(Continued.)

Senate Chamber,  
Austin, Texas,  
May 29, 1933.

The Senate met at 9 o'clock a. m., pursuant to recess, and was called to order by President Pro Tem. Walter Woodul.

## Point of No Quorum.

Senator Stone raised the point of order that a quorum was lacking.

The roll call showed the following present:

Collie.	Patton.
Duggan.	Poage.
Greer.	Rawlings.
Holbrook.	Redditt.
Hornsby.	Russek.
Moore.	Stone.
Pace.	Woodul.
Parr.	Woodward.

## Absent.

Beck.	DeBerry.
Blackert.	Fellbaum.

Hopkins.	Regan.
Martin.	Sanderford.
Murphy.	Small.
Neal.	Woodruff.
Purl.	

Absent—Excused.

Cousins.	Oneal.
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On motion of Senator Stone, a call of the Senate was ordered for the purpose of obtaining a quorum.

#### Bill Introduced.

By unanimous consent the constitutional rule relating to the introduction of general bills after the first 52 days of the session was suspended and consent was granted to introduce the following bill:

By Senator Woodruff:

S. B. No. 574, A bill to be entitled "An Act transferring from the credit of certain special accounts in the Comptroller's office to the credit of the General Revenue Fund certain unexpended balances appropriated under the terms and provisions of **H. B. 397 at the Regular Session of the Forty-second Legislature, 1931.**"

Read and referred to Committee on Finance.

#### Message From the House.

Hall of the House of Representatives,  
Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the conference committee report on H. B. No. 256 by a vote of 88 yeas and 26 nays.

The House has adopted the Conference Committee Report on S. C. R. No. 71 by a vote of 103 yeas and 7 nays.

The House has adopted the Conference Committee Report on Senate Bill No. 492, by a vote of 104 yeas and 0 nays.

The House has passed the following bills:

H. B. No. 241, A bill to be entitled "An Act making appropriations to pay miscellaneous claims against the State and authorizing payment of said miscellaneous items on taking effect of this Act, and declaring an emergency."

H. B. No. 249, A bill to be entitled "An Act to amend Article 1063 of

the Penal Code of the State of Texas of 1925, so as to include milk bottle cases; (Relating to filling or not returning container); and declaring an emergency."

H. B. No. 250, A bill to be entitled "An Act to amend Article 1064 of the Penal Code of the State of Texas of 1925, so as to include milk bottle cases; (Relating to injuring milk containers, etc); and declaring an emergency."

H. B. No. 251, A bill to be entitled "An Act to amend Article 1065 of the Penal Code of the State of Texas of 1925, so as to include milk bottle cases; (Relating to ownership of milk containers, etc); and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### S. C. R. No. 82.

Senator Duggan sent up the following resolution:

Whereas, There is a close connection between the long growth of civilization and the development of literature; and

Whereas, It has been customary in all ages for governments to recognize this relation by elevating the poet to the same plane as statesmen and military leaders; and

Whereas, The recognition of outstanding poets in this State and their elevation to places of honor will have a wholesome and beneficial effect on literature in this State; Now therefore, be it

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That at this Regular Session of the Legislature, two members of the Senate, to be named by the Lieutenant Governor, and three members of the House, to be named by the Speaker of the House, shall constitute a committee of five to appoint and designate some outstanding and recognized poet, who is a citizen of Texas, who shall be Poet Laureate of the State of Texas for a period of two years from such appointment and designation.

ONEAL,  
DUGGAN,

The resolution was read.

On motion of Senator Collie, the resolution was referred to the Committee on Educational Affairs.

**Free Conference Report.**

Senator Pace sent up the following free conference committee report:

Committee Room,  
Austin, Texas, May 23, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sirs: We, your Conferees, heretofore appointed to adjust the differences between the two Houses on H. B. No. 256, A bill to be entitled "An Act making an appropriation for the next two (2) fiscal years for the purpose of promoting the public school interests of rural schools and equalizing the school opportunities afforded by the State to all children of scholastic age living in small and financially weak districts, attaching conditions, regulations and limitations relative thereto, authorizing aid to such schools, etc., and declaring an emergency."

Having considered the differences between the two Houses and having reached an agreement, beg leave to report that the hereto attached completed bill is the bill which we recommend to be passed by both Houses.

We recommend the adoption of this report and the final passage by both Houses of the attached bill.

PACE,  
SANDERFORD,  
DUGGAN,

On the part of the Senate.

HARMAN,  
RIDDLE,  
SCOTT,

On the part of the House.

C. C. S. H. B. No. 256.

**A BILL****To Be Entitled**

An Act appropriating three million (\$3,000,000.00) dollars per year, or so much thereof as may be necessary, for the next two (2) fiscal years for the purpose of promoting the public school interests of rural schools and equalizing the school opportunities afforded by the State to all children of scholastic age living in small and financially weak districts, attaching conditions, regulations and limitations relative thereto, authorizing

aid to such schools in accordance with the conditions herein specified; providing for the maintenance of all rural schools which meet the requirements of this Act a term of a certain length; providing assistance for rural schools that will afford instruction and demonstration in home and farm vocations; providing assistance in the formation and maintenance of rural high school districts according to a plan; providing for the use of an amount not to exceed a certain sum for the payment each year of the biennium of high school tuition or rural school pupils according to the provisions of Chapter 181, of the General laws of the Fortieth Legislature, Regular Session, as amended by Senate Bill No. 10, passed at the First Called Session of the Forty-first Legislature and further amended by Senate Bill No. 41, Chapter 20, passed at the First Called Session of the Forty-second Legislature; providing for the payment of transportation aid under certain conditions; providing for penalties for violation of any of the provisions of this Act; providing for the administration of the funds appropriated herein by the State Board of Education and the State Superintendent of Public Instruction; providing for the manner of payment and disbursement of all moneys granted under the provisions of this Act; enacting other provisions necessary and incidental to the provisions of this Act; declaring the rule in event any provisions of this Act is unconstitutional or invalid; repealing all laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. (Appropriation.) For the purpose of promoting public school interest of rural schools and equalizing the educational opportunities afforded by the State to all children of scholastic age living in small and financially weak school districts, there is hereby appropriated out of the General Revenue, three million (\$3,000,000.00) dollars or so much thereof as may be necessary for the school year ending August 31, 1934, and three million (\$3,000,000.00)

dollars or so much thereof as may be necessary for the school year ending August 31, 1935, to be allotted and expended in accordance with the provisions of this Act; provided, that any unexpended balance occurring at the close of the year 1934, may be transferred and added to the appropriation for the years ending August 31, 1935.

Sec. 2. (Scholastic Population of District.) State Aid under the provisions of this Act may be distributed in such a way as to assist all schools of not fewer than twenty (20) scholastics and not more than four hundred (400) scholastics located in districts of not more than five hundred (500) scholastics, and consolidated districts which have an average of not more than two hundred (200) scholastics of each original district composing the consolidated unit, and all districts composed of entire counties having a scholastic population of less than five thousand (5,000); providing the provisions of this Section shall not apply to any school district containing forty-eight (48) square miles of territory or more, and further provided that the provisions of this Section shall not apply to any school district where sixty (60%) per cent, or more, of its students are transported in public buses from the rural districts.

Sec. 3. (Distance Between State Aid Schools.) No aid shall be granted to any school under the provisions of this Act which is located within two and one-half miles of another school of the same race, unless on account of the condition of the roads and other physical features it is unreasonable and impracticable for the pupils to attend another school; provided that this restriction shall not apply to elementary schools in a consolidated district nor to any district which at some previous election has voted to remove such conditions by consolidation.

Sec. 4. (Teacher Pupil Load.) State aid under the provisions of this Act shall be allotted upon the basis of one teacher for any number of scholastics from twenty to thirty-five and one additional teacher for each additional thirty scholastics, or fractional part thereof. The basis for calculation shall be the net scholastic enumeration of white or colored race, as the case may be, including

the transfers into the district, and excluding the transfers out of the district for the current year and there shall be deducted all scholastics who have completed the course of study in their home school, as authorized by the county board of trustees, provided that in unusual or extraordinary conditions of actual enrollment, an adjustment as to the number of teachers may be made by the State Superintendent, with the approval of the State Board of Education.

Sec. 5. (Average Daily Attendance.) No school shall be granted aid under the provisions of this Act whose average daily attendance is less than seventy (70%) per cent of the scholastic census enrollment for either white or colored school. Provided, the provisions of this Act shall not apply to any school where there is any kind of epidemic of sickness. Districts where parochial schools are maintained are exempt from the provisions of this section.

Sec. 6. (Tax Levy.) No school district shall be eligible to receive aid under the provisions of this Act unless it shall be providing for the annual support of its schools by voting, levying and collecting for the current year a local school tax, exclusive of the tax for interest and sinking fund for bonds, of not less than fifty cents on the one hundred dollars of property valuation in the entire district or not less than seventy-five cents, inclusive of the tax for interest and sinking fund for bonds; and providing further, that the property valuation shall not be less than said property is valued for State and county purposes; provided that the rate of tax required to be levied in this section shall not apply to transportation aid for counties whose schools are operated under the county unit system with a single governing board. Any school district that shall reduce its existing tax rate and/or tax rates thereby enabling it to participate under this Act shall not be eligible to receive aid from any of the funds herein provided.

Sec. 7. (Taxable Wealth.) No part of the aid herein provided for teachers salaries shall be given to a school district with an assessed valuation in excess of three thousand (\$3,000.00) dollars per scholastic as shown by the scholastic census, said valuation being assessed as provided heretofore; provided, that this sec-

tion does not apply to school districts that levy and assess a one dollar tax on the one hundred dollar valuation of taxable property.

Sec. 8. (Salary Schedule.) No part of aid herein provided shall be used for increasing the monthly salary of any teacher, but the funds provided for in this Act shall be used for the exclusive purpose of extending the length of the school term of the schools situated in the district receiving such aid on the basis of a schedule of teachers' salaries to be determined by the State Superintendent of Public Instruction with the approval of the State Board of Education.

Sec. 9. (Standard Schools.) All State aid schools of the unaffiliated class shall provide a term of approximately eight months. These schools shall be so classified by the county school board as to provide as near as possible an eight months term out of State, county and local funds. Should there not be sufficient funds to maintain the school as herein stated, then State aid may be granted subject to other provisions of this Act, provided that road conditions would prevent the transportation to nearest accredited high school.

Sec. 10. (High School Tuition.) It is hereby expressly provided that a sufficient amount of the funds appropriated by this Act shall be used for the payment of high school tuition not to exceed seven dollars and fifty cents (\$7.50) per pupil per month. High school tuition shall be paid according to the provisions of Chapter 181 of the General Laws of the Fortieth Legislature, Regular Session, as amended by Senate Bill No. 10 passed at the First Called Session of the Forty-first Legislature, and as further amended by Senate Bill No. 41, Chapter 20, passed by the First Called Session of the Forty-second Legislature.

Sec. 11. (Transportation Aid.) The county superintendent and county school board are hereby authorized to set up a system of transportation for the purpose of transporting high school pupils from their districts where their grade is not taught to the most convenient accredited high school. The expense of such transportation shall be paid out of funds hereby provided, not to exceed two dollars (\$2.00) per pupil per month. Provided further, that in districts composing an entire county,

high school transportation aid as authorized in this section may be granted for the purpose of transporting high school pupils within such districts to the most convenient accredited high school located in the county.

It is further provided that the districts through which these buses travel may make provisions with the county superintendent and county school board to have any other children not provided for herein transported within and between their respective districts, and said districts may make application for State aid thereon to an amount not to exceed one dollar (\$1.00) per month per pupil; provided that where regular buses do not run in sparsely settled sections of counties which are operating under a county unity system the county school board and county superintendent are authorized to make provisions for the transportation of pupils other than high school pupils within said districts, and may make application for State aid thereon to an amount not to exceed one dollar (\$1.00) per month per pupil. Provided that all school districts containing one hundred (100) square miles of territory, or more, may receive transportation aid of two dollars (\$2.00) per month per pupil.

Sec. 12. (Penalty Provision.) Any district violating any of the provisions of this Act or any rules or regulations adopted by the State Board of Education shall forfeit all rights to such aid and can be disqualified to receive any aid of any nature under any section of this Act for the current year. Should any school which would otherwise be eligible to receive aid agree, provide or contract with teachers to pay a smaller monthly salary during the remainder of the term following the granting of aid provided out of local funds than is paid out of State funds, then such school shall forfeit its right to receive aid.

Sec. 13. (Industrial Aid.) State aid may be granted to any one school in the district employing three (3) or more teachers which will provide for the proper instruction and demonstration in farm mechanics, agriculture and home economics, according to the program approved by the State Department of Education, and which shall be employing a teacher or teachers whose qualifications shall be approved by the State Superin-

tendent of Public Instruction, provided that the maximum aid to be granted to each of the above courses can not exceed one hundred (\$100.00) dollars per year.

Sec. 14. (Powers of State Board of Education and of State Superintendent of Public Instruction.) It shall be the duty of the State Board of Education and it is hereby authorized to take such action and to make such rules and regulations not inconsistent with the terms of this Act as may be necessary to carry out the provisions and intentions of this Act, and for the best interest of the schools for whose benefit the funds are appropriated. It shall be the duty of the State Superintendent of Public Instruction to appoint an inspector to make a thorough investigation in person of the grounds, buildings, equipment, teaching forces, and financial condition of each school, applying for aid; and no aid shall be given unless it can be shown that all provisions of this Act and regulations made by the State Board of Education have been complied with, and that such amount of aid is actually needed. Provided further that the State Superintendent of Education shall not appoint to exceed sixteen (16) inspectors and two (2) stenographers under this Act.

Sec. 15. All schools not having over four teachers and not having received State aid heretofore may receive ten (\$10.00) dollars per teacher for library books from this fund, if the amount received is duplicated by local funds from any source. Every class room school applying for this library aid must either have a library room, a library case, or shelves with a locker. The books must be selected from the library bulletins prepared by the State Department of Education and a list of the books purchased must be filed with the county superintendent. The money raised by the school applying for this aid must be deposited in a bank or vouched for by the county superintendent. Schools may qualify for this aid each year during the biennium. There shall be no local tax requirement for library aid.

Sec. 16. (Application for Aid.) The trustees of schools authorized

in Section 2 of this Act may send to the State Superintendent, on forms provided by the State Department of Education, a list of the teachers employed in the school showing the monthly salary, experience and training of each, together with an itemized statement of expected receipts and expenditures, the length of term, and such other information as may be required, and the State Superintendent with the approval of the State Board of Education, may then grant to the school such an amount of this fund as will, with the State and county available funds, together with the local funds, maintain the school for a term not to exceed nine (9) months and approximately eight (8) months; provided, that if the school has sufficient State and county available funds to maintain the school for an eight (8) months term according to the salary schedule adopted by the State Board of Education, with its local maintenance tax, to maintain the desired term, not to exceed nine (9) months, as provided in Section 2, it shall not be eligible to receive State aid; provided further, that the county superintendent shall approve all contracts with teachers, supervising officers and bus drivers in all schools before such schools may be eligible to receive State aid under any provisions of this Act.

Sec. 17. (Equalization Fund.) Any county in this State that has a special equalization fund derived from State and county available funds and which contributes to the said funds for the benefit of its rural schools out of its own funds as much as forty thousand (\$40,000.00) dollars per annum, shall receive from the appropriation herein provided, fifteen thousand (\$15,000.00) dollars for each year of the biennium to supplement the equalization fund thereof for all purposes, without inspection being made by the State Department of Education, provided, such counties, in addition to such State aid, may be granted reimbursement for high school tuition.

Sec. 18. (Counties With Less Than 1400 Scholastics.) It is hereby provided that schools in sparsely settled counties having less than four-

teen hundred (1400) scholastic population in the common school districts, may be exempted from the minimum restriction of twenty (20) scholastics; provided, that each district applying for aid is levying and collecting the limit of local support as provided in Section 6 of this Act. Provided the State Department of Education may grant aid to schools in sparsely settled districts without regard to the number of scholastics or the duration of the term of each school.

Sec. 19. (Transfer of entire district.) On the agreement of the board of trustees of the district concerned or on petition signed by a majority of the qualified voters of the district and subject to the approval of the county superintendent and the State Superintendent, the trustees of a district which may be unable to maintain a satisfactory school may transfer its entire scholastic enrollment, or any number of grades thereof, to a convenient school of higher rank, and in such event all of the funds of the district, including the State aid to which the district would otherwise be entitled to under the provisions of this Act, or such proportionate part thereof as may be necessary, may be used in carrying out the said agreement.

Sec. 20. (Disbursement.) Warrants for all money granted under the provisions of this Act shall be transmitted by the State Superintendent of Public Instruction to treasurers of depositories of school districts to which State aid is granted in the same manner as warrants for State apportionments are now transmitted, and it shall be the duty of all treasurers of depositories to make annually itemized reports under oath to the State Superintendent of Public Instruction of the expenditures of all money granted under the provisions of this Act.

Sec. 21. In counties which constitute a single school district and in which there is no governing body designated as the county school board, the duties authorized by this Act to be performed by the county school board are hereby conferred upon the existing governing bodies of such districts.

Sec. 22. (Miscellaneous Provi-

sions.) Rural schools accepting the provisions of this Act shall be entitled to share in the distribution of State and county available school funds and in all other school funds in the same manner as all other school districts; and in case high school grades are maintained, the community shall still be entitled to participate in the distribution of any State aid that may be extended by the Legislature of Texas for vocational or industrial purposes to high schools of the State; provided, however, that no school or school district shall be denied Rural State Aid for failure or refusal to buy any books, equipment, charts and/or school supplies offered by any person, firm or corporation unless the minutes of the State Board of Education of Texas show that said books, equipment, charts, and/or supplies were approved by a majority vote of said State Board of Education.

Sec. 23. It shall be the duty of the State Board of Education and the State Superintendent of Public Instruction to pay by warrant not more than fifty (50%) per cent of the total amount allotted to any one school as an initial payment, and that the remaining payments shall be made on a percentage basis to the schools in such manner and amounts that the total expenditures for any one year shall not exceed the total appropriation for that year.

It is specifically provided herein that the State Board of Education and the State Superintendent of Public Instruction shall not pledge the State nor incur obligations against the rural aid fund in any amount or in any one year in excess of the amount herein appropriated.

The State Board of Education and the State Superintendent of Public Instruction are hereby prohibited from paying any one or more school its or their allotment in an amount greater, on a percentage basis, than is paid any other school. This provision shall apply to all allotments and claims and/or appropriations provided for in this measure.

Sec. 24. It shall be unlawful for any county school superintendent, or the superintendent of any common or independent school district, school teacher, county trustee and/or district trustee nor any other person

directly or indirectly to use or promise to use, pay or promise to pay, any of the funds herein appropriated for the purpose of paying the salary and/or expenses of any person or persons to maintain a lobby for any purpose. Violation of this provision shall forfeit the right or rights of the county or any school district in the county from participating in the funds herein appropriated.

Sec. 25. (Repealing and Constitutional Clauses.) All laws or parts of laws in conflict herewith are hereby repealed, and in the event any provision of this Act is unconstitutional or invalid the remainder of this Act shall, nevertheless, remain in effect.

Sec. 26. (Emergency Clause.) The fact that many schools in rural districts are in need of aid, and that public policy requires that proper provision be made for the maintenance and support of the schools with as little delay as possible, and the further fact that considerable time is required in preparation for carrying out the terms of this Act, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was read.

Senator DeBerry moved to lay the report on the table subject to call.

Senator Poage moved as a substitute that the report be rejected and that the report be recommitted to the committee for further consideration. The substitute motion prevailed.

#### House Bills Referred.

H. B. No. 241, referred to Committee on Finance.

H. B. No. 249, referred to Committee on Criminal Jurisprudence.

H. B. No. 250, referred to Committee on Criminal Jurisprudence.

H. B. No. 251, referred to Committee on Criminal Jurisprudence.

#### Senate Bill No. 573.

The Chair laid before the Senate by unanimous consent the following bill:

By Senator Holbrook:

S. B. No. 573, A bill to be entitled "An Act to aid the City of Palacios, Texas, situated in Commissioners Precinct No. 3 of Matagorda County, Texas, in constructing and maintaining sea walls, breakwaters and shore protection in order to protect said city from calamitous overflows, by donating to it eight ninths (8-9ths) of ad valorem taxes collected on all property, both real and personal, in Commissioners Precinct No. 3 of Matagorda County, Texas, for a period of twenty years, providing a penalty for misapplication of the moneys thus donated, and declaring an emergency."

Read second time.

On motion of Senator Holbrook, the bill was laid on the table subject to call.

#### Motion to Concur.

Senator Hornsby moved to concur in the two House amendments to S. B. No. 20. The motion prevailed by the following vote:

Yeas—26.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Nays—2.

DeBerry.	Purl.
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Absent.

Hopkins.

Absent—Excused.

Cousins.

Oneal.

#### Message from the House.

Hall of the House of Representatives,  
Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:



S. B. No. 20, A bill to be entitled "An Act fixing the time for making election returns by presiding judges in general and special elections, and amending Article 3123 so as to fix the time for making precinct and county election returns in party primary elections; fixing a penalty for the failure to make such returns within the time prescribed by this Act; and declaring an emergency."

(With amendments.)

S. B. No. 395, A bill to be entitled "An Act amending Article 3022, R. C. S. 1925; providing for unofficial but complete returns in addition to official return as provided by law; defining further the duties of election officers, of the chairmen of the State, district and county executive committees of political parties, of the county clerks and of the Secretary of State; providing for their compensation for said additional duties; providing for the payment of expenses of unofficial returns; regulating the use of unofficial returns; amending Articles 3033 and 3034, R. C. S. 1925; amending Articles 3123, 3124 and 3125, R. C. S. 1925; amending Article 3127, R. C. S. 1925, amending Articles 3134 and 3135, R. C. S. 1925; providing penalties for violation of this Act and remedies for its enforcement; providing that if any section, paragraph or provision of this Act be held unconstitutional or invalid for any reason, the same shall not impair or affect the remaining portions or provisions hereof; and declaring an emergency."

(With amendments.)

The House has granted the request of the Senate for the appointment of a Conference Committee to consider the differences between the two Houses on S. B. No. 259. The following are conferees on the part of the House:

Patterson, Kayton, Rogers of Ochiltree, Scott and Coombes.

The House has passed the following bills:

H. B. No. 331, A bill to be entitled "An Act to amend Articles 7204 and 7162, Title 122, Chapter 6, of the Revised Civil Statutes of 1925, so as to empower and make it the duty of the State Comptroller of Public Accounts to prescribe such additional inventory forms for listing and as-

sessing property as will reach in an intelligible way all classes of real and personal property subject to taxation; providing for the listing of additional subjects; making all provisions hereof cumulative of the existing statutory provisions relative to the assessment of property, and declaring an emergency."

H. B. No. 925, A bill to be entitled "An Act to invest within the Board of Control the authority to make such oil and gas mineral lease of certain land in Polk County, Texas, now owned and occupied by the Alabama and Coushatti Indians; providing for notice to be given of intention to make such lease; providing for lease to be let for highest sum offered, and for the money so received in payment of lease to be placed in the State Treasury to the credit of said Indians to be spent by and within the discretion of the Board of Control, and declaring an emergency."

H. B. No. 659, A bill to be entitled "An Act to amend Article 4907, Revised Statutes of 1925, as amended by Chapter 171, Acts of the Forty-second Legislature, by adding thereto the provision that said Commission is empowered to so make, establish, and promulgate all classifications of hazards and rates of premium applicable to Workmen's Compensation policies so as to permit subscribers to contract with their compensation insurance carriers to indemnify said carrier as to all or any part of the carrier's liability for medical, hospital, and surgical benefits to an employee, and authorizing said commission to make, establish and promulgate rates of premiums applicable to said contracts of indemnity; and declaring an emergency."

H. B. No. 865, A bill to be entitled "An Act to amend Subdivision 9, Article 2135, Chapter 7, Title 42, of the Revised Civil Statutes of the State of Texas, 1925, as amended by Acts of 1931, Forty-second Legislature, page 375, Chapter 221, Section 2, so as to provide that in cities and towns having a population of one thousand (1,000) or more inhabitants, according to the last preceding United States Census, the active members of organized fire companies; not to exceed twenty (20), to each one

thousand (1,000) of such inhabitants, shall be exempt from jury service; and declaring an emergency."

H. B. No. 849, A bill to be entitled "An Act to declare the validity of certain indebtedness arising out of the construction of State Highway No. 41, in the County of Real; to place such indebtedness on a parity with bonds, warrants, and other evidences of indebtedness heretofore authorized to be paid out of the County and Road District Highway Fund; providing for the payment of such indebtedness to Real County in trust for Capt. Charles Schreiner, his heirs and legatees; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

H. B. No. 783, A bill to be entitled "An Act repealing Article 5565, of the 1925 Revised Civil Statutes of Texas, and declaring an emergency." (Relative to appointment of gin inspectors.)

H. B. No. 947, A bill to be entitled "An Act repealing all local or special laws, affecting the taking or sale of fish, insofar as they pertain to Anderson County; and declaring an emergency."

H. B. No. 956, A bill to be entitled "An Act amending Article 322, of the 1925 Revised Civil Statutes of Texas, same being Acts of 1927, Fortieth Legislature, page 222, Chapter 151, by omitting the word 'fortieth' which same is the Fortieth Judicial District of Ellis County, Texas; declaring that it is the intent of this Act to affect only the Fortieth District and not to affect any other districts; declaring the intent of the Legislature in the passage of H. B. No. 411, Regular Session of the Forty-third Legislature, to have been to affect only the Fortieth District; and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### Senate Bill No. 574.

The Chair laid before the Senate, by unanimous consent, the following bill:

By Senator Woodruff:

S. B. No. 574, A bill to be entitled "An Act transferring from the credit of certain special accounts in the Comptroller's Office to the credit of

the General Revenue Fund certain unexpended balances, etc.; and declaring an emergency."

On motion of Senator Woodruff, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 574 was put on its second reading by the following vote:

Yeas—29.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornshy.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

Absent—Excused.

Cousins.

Oneal.

The rule requiring committee reports to lie over one day was suspended by unanimous consent.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

Read second time.

On motion of Senator Woodruff, the bill was laid on the table subject to call.

#### House Bill No. 832.

The Chair laid before the Senate, as pending business, the following bill:

H. B. No. 832, A bill to be entitled "An Act creating the Texas Athletic Commission, which shall have sole jurisdiction over all ring exhibitions in the State, said Commission to consist of three members, appointed by the Governor, and fixing the terms of office at two years, providing the method of filling vacancies; providing for the maintenance of an office, the selection of a chairman and a secretary, and the number that shall constitute a quorum; fixing the yearly salaries, and from what funds such salaries shall be paid; providing for the appointment of a secretary to the Commission, prescribing

his duties, and fixing his salary; fixing the time for the first meeting and organization of the Commission, the adoption of a seal for the Commission, etc., and declaring an emergency."

The question recurred upon the pending amendment (by Senator Purl) as amended. The amendment was lost by the following vote:

Yeas—9.

Beck.	Poage.
DeBerry.	Purl.
Moore.	Woodul.
Murphy.	Woodward.
Neal.	

Nays—16.

Blackert.	Rawlings.
Duggan.	Redditt.
Fellbaum.	Regan.
Greer.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Pace.	Stone.
Patton.	Woodruff.

Absent.

Holbrook.	Hopkins.
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Absent—Excused.

Cousins.	Oneal.
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(Pair Recorded.)

Senator Collie (present) who would vote yea. with Senator Parr (absent) who would vote nay.

Senator Stone sent up the following amendments:

Amend H. B. No. 832 as amended by adding to Amendment No. 4 the following:

"If any person, firm, or corporation be dissatisfied with any order, ruling, or decision of said Commissioner, such aggrieved party may, within thirty (30) days from the entry of such order, ruling, or decision, appeal therefrom to the District Court of Travis County, and such court may hear and determine such appeal, in term time or vacation, by trial de novo. If the aggrieved party shall prevail by final judgment, a certified copy thereof shall be presented to the Commissioner who shall comply with the terms thereof upon the payment of all fees incurred under the terms of this Act."

STONE.

Read and adopted.

Amend Committee Amendment No. 1 to H. B. No. 832 by adding in line 24, page 7, after word "license" the following "and all other," and by adding in line 26, after word "used" the following "to the amount herein authorized," and by adding on line 31, after the word "statistics" the following "and the sum of \$6500.00 or so much thereof as may be necessary," and by adding on line 46, after the word "years" the following "to be paid out of the above \$6500.00 herein appropriated."

STONE.

Read and adopted.

Amend H. B. No. 832, on page 3, line 48, by inserting the following "by the State Treasurer."

STONE.

Read and adopted.

Senator Purl sent up the following amendment:

Amend H. B. No. 832 by adding a new section to be known as Sec.—a. No contract or agreement for any exhibition or exhibitions under the terms of this Act shall be transferred or assigned to any third person and shall only be valid and enforceable as between the original parties thereto.

PURL.

The amendment was read.

#### Message From the House.

Hall of the House of Representatives,  
Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 574, A bill to be entitled "An Act amending an Act passed at the Regular Session of the Thirty-fifth Legislature of the State of Texas, entitled 'An Act amending an Act passed at the Regular Session of the Thirty-third Legislature of the State of Texas, entitled "An Act granting unto the municipal authorities of the City of Austin, Texas, the right to establish, operate, and maintain a public municipal auditorium upon the tract of land bounded on the north by Fifth Street, on the south by Fourth Street, on the east by Guadalupe Street, and on the west by San Antonio Street, in said City of Austin, and changing the designation upon the map of the City of Austin of said tract from public square to public municipal auditorium, so as to

grant the City of Austin for ninety-nine years the said land for a municipal auditorium and market, to hereafter read as follows, and declaring an emergency," so as to grant to the City of Austin for ninety-nine years the said land for a public square and fire station, to hereafter read as follows, and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### Motion to Concur.

Senator Neal moved to concur in the three House amendments to S. B. No. 395. The motion prevailed by the following vote:

#### Yeas—27.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
Duggan.	Purl.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

#### Nays—2.

DeBerry.	Rawlings.
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#### Absent—Excused.

Cousins.	Oneal.
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#### House Bills Referred.

H. B. No. 331 referred to Committee on State Affairs.

H. B. No. 659 referred to Committee on Insurance.

H. B. No. 783 referred to Committee on Agricultural Affairs.

H. B. No. 947 referred to Committee on Game and Fish.

H. B. No. 925 referred to Committee on Public Lands and Land Office.

H. B. No. 865 referred to Towns and City Corporations.

H. B. No. 849 referred to Committee on Public Debts.

H. B. No. 956 referred to Committee on Civil Jurisprudence.

H. B. No. 574 referred to Committee on Public Lands and Land Office.

#### Bills Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 492.	H. B. No. 442.
S. B. No. 20.	H. B. No. 666.
S. B. No. 395.	H. B. No. 920.
H. B. No. 166.	H. B. No. 928.
S. J. R. No. 13.	H. B. No. 50.
H. C. R. No. 84.	H. C. R. No. 84.

#### House Bill No. 956.

The Chair laid before the Senate, by unanimous consent, the following bill:

H. B. No. 956, A bill to be entitled "An Act amending Article 322, Revised Civil Statutes, 1925, by omitting the word 'fortieth,' which same is the Fortieth Judicial District of Ellis County, Texas, etc., and declaring an emergency."

On motion of Senator Collie, the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 956 was put on its second reading by the following vote:

#### Yeas—29.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

#### Absent—Excused.

Cousins.	Oneal.
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The rule requiring committee reports to lie over one day was suspended by unanimous consent.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

The bill was read second time and passed to third reading.

On motion of Senator Collie, the constitutional rule requiring bills to

be read on three several days was suspended and H. B. No. 956 was put on its third reading and final passage by the following vote:

## Yeas—29.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

## Absent—Excused.

Cousins. Oneal.

Read third time and finally passed by the following vote:

## Yeas—29.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

## Absent—Excused.

Cousins. Oneal.

## Recess.

On motion of Senator Woodward, the Senate, at 12:32 o'clock p. m., recessed until 3 o'clock p. m.

## After Recess.

The Senate met at 3 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

## Message From the House.

Hall of the House of Representatives,  
Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolution:

S. J. R. No. 13, Proposing an amendment to Section 3 of Article VIII of the Constitution of the State of Texas, and providing for the levying and collection of taxes by general laws, and fixing the total amount of revenue which may be collected during each biennium, and the total amount of funds which may be expended during each biennium; provided that restrictions herein contained as to amounts of taxes to be levied may be suspended in case of grave emergencies; and providing for an election upon such proposed constitutional amendment, and making an appropriation therefor.

H. B. No. 913, A bill to be entitled "An Act amending Articles 697 and 698, of the 1925 Revised Criminal Statutes of Texas, by providing that it shall be the duty of the Attorney General to prosecute all violations under said Articles either for the penal offense committed or to prevent the violations of same by the writ of injunction; and by further providing in said Article 697, that the terms of same shall apply to all municipal and private corporations, and that in said Article 698, the city manager of the municipal corporation shall be deemed guilty of such offense when committed, and declaring an emergency."

The House has concurred in Senate amendments to H. B. No. 43 by a viva voce vote.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

## Communication Ordered Printed.

Senator Parr sent up the following communication to be read and printed in the Journal.

Kingsville, Texas, May 27, 1933.  
Hon. A. Parr,  
Senate Chamber,  
Austin, Texas.

Dear Senator Parr:

So much has been said and written that is not true concerning the position of the citizens of Kenedy County

regarding the building of the Hug the Coast Highway through that county and the merits and demerits of possible routes through Kenedy County, that I feel it a duty to myself, the tax payers of Kenedy County and the people of Texas to make our position in the controversy clear.

As you know, the King, Kleberg and Kenedy families during all the years of the past have given freely of their time and money to the development of this section of Texas, and it is this same desire to render service to South Texas that governs their actions with respect to the present problem.

When the St. Louis, Brownsville and Mexico Railway was built in 1904, the late Mr. Robert J. Kleberg, anticipating the future necessity for a highway, had a survey made between Riviera and Raymondville along the railroad. This survey developed the fact that it would be a very expensive road to build and most difficult to maintain due to shifting sands and the lack of drainage, there being no streams between the Los Olmos Creek, two miles south of Riviera, and the Arroyo Colorado, about two miles south of Harlingen, a distance of about eighty miles. Because of the discouraging results of this survey and in order to avoid the difficulties presented, (some years later and before the creation of our Highway Commission) in order to give the Valley an outlet by highway, the location of present Highway No. 66 was selected by Hon. J. A. Brooks, present County Judge of Brooks County, the late Robert J. Kleberg, and the late John G. Kenedy. Since the construction of Highway 66 the traffic to and from the Rio Grande Valley has never been sufficient (600 cars per day on the last traffic count and never more than 850 cars a day) to justify the building of an additional parallel highway to the Valley within 20 miles of the present road.

Despite this fact, some 10 years ago, a movement was inaugurated to build a highway from Raymondville to connect with the road running south from Corpus Christi by way of the Chapman Ranch without touching any towns in Kleberg County. The argument was used

that this would give a short route to the Port of Corpus Christi and on to Houston via the Hug-the-Coast Highway. The plan provided that bonds should be issued by the several counties to cover the cost of construction. Estimates submitted claimed that the traffic in and out of the Valley was over 3,000 cars daily, while an actual traffic count made by the Highway Commission showed approximately 700 cars daily.

Shortly after this movement was inaugurated, T. B. Warden, then Engineer for the Hug-the-Coast Highway Association, in company with Messrs. D. K. Martin and J. O. Chapman, came to see me and asked that I assist in securing right-of-way for a highway through Kenedy County. I asked Mr. Warden if any engineering study of the proposed road had been made. He replied that there had not. I then stated to him that I did not care to discuss the matter until he had gone over the proposed route and volunteered to accompany him. The trip was made on the following day. After going over the ground, Mr. Warden stated to me that he could not as an engineer and under existing circumstances recommend this project. He later made this same statement to Hon. R. S. Sterling, then Chairman of State Highway Commission. Some time after this, Mr. Sterling visited this section, bringing with him Judge Ely, also a member of the Highway Commission, their engineers, Mr. D. K. Martin, (not then a member of the Highway Commission) and Mr. J. O. Chapman, who was much interested in the building of a road as outlined, as it would pass through his property. Mr. Sterling asked me to discuss the highway project with him. I stated I would prefer not to discuss it until after I had an opportunity of showing him over the proposed route, as well as some other highway projects which I believed the commission would find interesting. Mr. Sterling consented and we made a three-day trip in and out of the Valley, both north and south and east and west, and from Corpus Christi through Kingsville to Hebbronville.

After this trip, Mr. Sterling stated to me that he would have a traffic count made and a preliminary survey

of the road he proposed between Corpus Christi and Raymondville. This he did and later, at a conference in Austin, stated to me that the road from Corpus Christi through Chapman Ranch to Sarita and thence to Raymondville would cost \$4,000,000, that it would not serve more than 300 cars daily (half the traffic over the present highway 66) and that, therefore, such an expenditure could not be justified at that time. I stated to him then that if the Valley continued to grow and the traffic increase to the extent that an additional highway was necessary, the matter of right-of-way could be worked out with the citizens of Kenedy County.

Messrs. Kleberg, Kenedy, Armstrong, Yturria and other property owners of Kenedy County were the prime movers in the opening up of the Lower Rio Grande Valley, which was developed into one of the garden spots of the United States. The present generation of these forward looking men are among the largest tax payers in Nueces, Kleberg, Kenedy, Willacy and Cameron Counties, and being increasingly interested in its further development and wishing to meet in so far as possible the desires and hopes of those citizens of the Valley, who have devoted their lives to its development, they made a careful study of the possibilities of constructing a highway on the Gulf side of Padre Island. They felt that if such a project were practicable, there would be no question as to its attractiveness and the creation of increased traffic which would make it self-liquidating within a short period. Their study convinced them that the proposed road was not only practicable and feasible, but that it could be constructed at a reasonable cost. They, therefore, decided to ask the Highway Commission to make a personal inspection of the route, and its possibilities.

Judge Ely, Chairman, D. K. Martin, member, Glibb Gilchrist, chief engineer, Capt. Bailey, division engineer of the Highway Commission, and the former chief engineer of the Hug-the-Coast Highway Association, Mr. T. B. Warden, accepted the invitation and made the trip covering the full length of the Island, in company with Richard M. Kleberg, John

G. Kenedy, Jr., and Robert J. Kleberg, Jr.

As a result of this trip and the interest aroused, engineers of the Highway Department made a survey of the route along the Gulf side of the Island with possible connections to several points in the Valley. This preliminary survey, showed conclusively that a highway, together with connecting causeways, could be built down the Island through Kenedy County for approximately the same cost as the first proposed. We believed that the building of a highway paralleling the Missouri Pacific Railway through Kenedy County would divide the present traffic with Highway No. 66, which does not exceed 600 cars per day, and would create no new traffic; while on the other hand, we felt that a road on Padre Island, through Kenedy County, would without doubt bring a very great increase in traffic, and all distances between interested communities are shorter and no drainage or fence problems along the route are involved. We felt that it would appear consistent with the public interest, both local and State, for the citizens of Kenedy County to be more interested in a road along Padre Island, (much of which is in Kenedy County) as against the other route.

We have some striking examples of the value of this truly Hug-the-Coast project in what coastal highways in California and Florida have done for those states. The Padre Island drive would greatly surpass in beauty and attractiveness anything in either of those states, and the resort development which would be certain to follow would inure greatly to the benefit of all the citizens of Texas. The great development of California and its agricultural progress did not reach its maximum until its sea coast resorts brought thousands of pleasure seekers from all states of the Union. The great pilgrimage of tourists, leaving thousands of permanent residents, benefited the entire state. Florida presents a similar example. Yet neither of these states has such a beach as that of Padre Island. To be just and fair to those differing from us and desiring above all to injure none of our neighbors should we be mistaken in our judgment, I submit this

statement with the proposal through you, our Senator and life-long friend, if it meets with your approval that the Highway Commission be requested to have prepared a complete engineering report of the possibilities, cost, safety, all-weather features, traffic capacity, present and future of both projects under consideration, namely, the proposed Padre Island road and the route paralleling the Missouri Pacific Railroad; that such study and survey be commenced without delay and that the report of the commission, together with its findings, conclusions and recommendations, be completed and made public in the shortest possible time consistent with a full and fair consideration of the problems involved. I request also that a representative of the Bureau of Public Roads of the Federal Department of Agriculture be invited to join the commission in the proposed investigation. When the proposed study and investigation have been completed, and the Highway Commission has reached a decision and is prepared to build the road, the interested land owners of Kenedy County will immediately and without delay request the Commissioners Court of Kenedy County to cooperate with the Highway Commission in securing the necessary right-of-way for whichever route the commission may recommend.

We are eager and anxious to continue the progressive and farsighted policies of our fathers and grandfathers, which were largely responsible for the wonderful development which our favored section of Texas has enjoyed, and so we feel that in this matter careful consideration should be given to both of the proposed routes in order that the greatest good of the greatest number may be accomplished. We have no other purpose, interest or concern, and shall gladly abide by the decision of the Highway Commission.

Respectfully,  
ROBT. KLEBERG.

Approved: John G. Kenedy, Jr.  
H. F. and J. C. McGill by H. F. McGill, Carson Kleberg, Will Ball, Chas. M. Armstrong, Fausto Yturria, Daniel Yturria.

#### Senate Simple Resolution No. 121.

Senator Parr sent up the following resolution:

Whereas, Interested land owners in a communication addressed to the Hon. Archie Parr, Senator from the Twenty-seventh Senatorial District, have requested that the Highway Commission make a survey and report covering two suggested routes for the Hug-the-Coast Highway through Kenedy County; and

Whereas, Said interested land owners have agreed to abide by the recommendations of said Highway Commission based upon such study and investigation, and to cooperate in securing the necessary rights-of-way for a highway through Kenedy County for such route as the Highway Commission may recommend; therefore, be it

Resolved, That the Senate of Texas hereby requests the Highway Commission to proceed without delay to make a thorough study of the two routes proposed and that it expedite with all possible dispatch the completion of such study and investigation and make public its recommendation as soon as possible in order that construction of the proposed highway may be commenced as soon as may be practical.

PARR,	NEAL,
PURL,	MURPHY,
WOODUL,	RUSSEK,
WOODWARD,	REDDITT,
RAWLINGS,	SANDERFORD,
HORNSBY,	PACE,
DUGGAN,	FELLBAUM,
POAGE,	WOODRUFF,
REGAN,	GREER,
STONE,	MOORE,
MARTIN,	PATTON,
BLACKERT,	HOLBROOK.

Read and adopted.

#### Senate Simple Resolution No. 122.

Senator Russek sent up the following resolution:

Whereas, The Chamber of Commerce and citizenship of Yoakum has extended to the Senate a most gracious invitation to visit Yoakum and assist their enterprise, the Tom Tom celebration, to be held on June 5th next; now, therefore, be it



Resolved by the Senate of Texas, That it accept such invitation, and that it extend its felicitations to the City of Yoakum on its enterprise and public spirit, and extend to said city its wishes for success in this celebration.

RUSSEK.

Read and adopted.

**Senate Bill No. 574.**

Senator Woodruff called up from the table S. B. No. 574.

Senator Woodruff sent up the following amendment:

Amend S. B. No. 574 by striking out all of lines 1, 2, 3, 4, and 5, page 2, and inserting in lieu thereof the following:

Item M-1029. Fees of sheriffs, constables, justices of the peace, and county attorneys in examining trials, for the fiscal year ending Aug. 31, 1930 ..... \$ 5,143.90

Item M-1030. Fees of sheriffs, constables, district clerks, and county attorneys in felony cases, for the fiscal year ending Aug. 31, 1930 75,541.26  
WOODRUFF.

Read and adopted.

The bill was passed to third reading.

On motion of Senator Woodruff, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 574 was put on its third reading and final passage by the following vote:

Yeas—29.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

Absent—Excused.

Cousins.

Oneal.

Read third time and finally passed by the following vote:

Yeas—26.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Small.
Hornsby.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.

Nays—3.

Martin.  
Pace.

Sanderford.

Absent—Excused.

Cousins.

Oneal.

**Message From the House.**

Hall of the House of Representatives,  
Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 722, A bill to be entitled "An Act to amend Article 5155 of Chapter 3, Revised Civil Statutes, 1925, relating to the payment of wages, and declaring an emergency."

H. B. No. 778, A bill to be entitled "An Act making it unlawful for any railroad, or pipeline common carrier, or truck line common carrier to accept for shipment any crude petroleum, without requiring the furnishing by the shipper of evidence, as defined in this Act, that such crude petroleum was not produced in excess of the amount allowed to be produced under any rule, regulation, or order of the Railroad Commission of Texas; prescribing penalties for the violation of this Act, and authorizing suit to be brought for recovery of same; authorizing suits for injunction to restrain threatened violations of this Act; and declaring an emergency."

H. B. No. 958, A bill to be entitled "An Act authorizing any governmental agency of the State of Texas heretofore authorized to borrow money from the Reconstruction Finance Corporation under Acts of the Forty-third Legislature to also borrow money in accordance with the provisions of the several Acts of the Forty-third Legislature from any other Federal agency now or to be hereafter created; and declaring an emergency."

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### House Bill No. 832.

The question recurred upon the amendment (by Senator Purl) to H. B. No. 832.

The amendment was adopted.

Senator Purl sent up the following amendment:

Amend H. B. No. 832, by striking out the following: "except in a championship match." in Section 1 and , in Section 11.

PURL.

Read and lost by the following vote:

Yeas—12.

Beck.	Purl.
Collie.	Rawlings.
DeBerry.	Small.
Duggan.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.

Nays—13.

Blackert.	Pace.
Fellbaum.	Parr.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Stone.
Martin.	

Absent.

Moore.	Poage.
Patton.	Redditt.

Absent—Excused.

Cousins.	Oneal.
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Senator Collie sent up the following amendment:

Amend H. B. No. 832, Section 10, page 5, line 40, by striking out the semicolon and the word "or" and insert after the word "match" the

following: "which shall not exceed 15 rounds; or"

COLLIE,  
PURL.

Read and adopted.

The bill was passed to third reading by the following vote:

Yeas—19.

Blackert.	Poage.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hornsby.	Russek.
Martin.	Sanderford.
Murphy.	Small.
Pace.	Stone.
Parr.	Woodul.
Patton.	

Nays—8.

Beck.	Moore.
Collie.	Neal.
DeBerry.	Purl.
Duggan.	Woodruff.

Absent—Excused.

Cousins.	Oneal.
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Pair Recorded.

Senator Woodward (present), who would vote nay with Senator Hopkins (absent), who would vote yea.

On motion of Senator Stone, the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 832 was put on its third reading and final passage by the following vote:

Yeas—29.

Beck.	Parr.
Blackert.	Patton.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

Absent—Excused.

Cousins.	Oneal.
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Read third time and finally passed by the following vote:

Yeas—19.

Blackert.	Poage.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hornsby.	Russek.
Martin.	Sanderford.
Murphy.	Small.
Pace.	Stone.
Parr.	Woodul.
Patton.	

Nays—8.

Beck.	Moore.
Collie.	Neal.
DeBerry.	Purl.
Duggan.	Woodruff.

Absent—Excused.

Cousins. Oneal.

Pair Recorded.

Senator Woodward (present), who would vote nay with Senator Hopkins (absent), who would vote yea.

#### Message From the House.

Hall of the House of Representatives,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 561, A bill to be entitled "An Act amending Article 879, and Article 879-b, of Chapter 6, Title 13, Revised Criminal Statutes of Texas, 1925, as amended by Acts of the Fortieth Legislature, page 316, Chapter 215, and as amended by Acts, Fourth Called Session, of the Forty-first Legislature, page 29, Chapter 19, providing an open season or period of time, when it shall be lawful to hunt, take, or kill wild mourning doves, wild quail of all kinds, and wild Mexican pheasants, or chachalaca, in the North and South Zones, as such Zones are defined in Article 878, of the Revised Penal Code, as amended by Chapter 222, page 326, Acts of the Fortieth Legislature, Regular Session; and repealing any provision of law in conflict with this Act; making it unlawful to hunt, take, or kill wild mourning doves, wild quail of all kinds, wild Mexican pheasants, or chachalaca, at any

other time of year; providing a penalty, and declaring an emergency."

H. B. No. 687, A bill to be entitled "An Act providing that no life insurance company organized under the laws of any state other than the State of Texas, or organized under the laws of any foreign country, may reinsure the entire outstanding business of any solvent life insurance company organized under the laws of this State, or acquire, either directly, or indirectly, all, or substantially all, of the assets of any solvent insurance company organized under the laws of this State; repealing all laws in conflict, and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### Gift Presented to President Pro Tem. Walter Woodul.

Senator Woodward introduced Jack Love, who presented to President Pro Tem. Walter Woodul, a gift on behalf of the Senate pages.

Senator Woodul briefly expressed his appreciation.

#### House Bills Referred.

H. B. No. 958, referred to Committee on State Affairs.

H. B. No. 778, referred to Committee on State Affairs.

H. B. No. 722, referred to Committee on Labor.

H. B. No. 913, referred to Committee on Towns and City Corporations.

H. B. No. 561, referred to Committee on Game and Fish.

H. B. No. 687, referred to Committee on Insurance.

#### Opinion Ordered Printed.

Senator Woodruff sent up the following opinion which was ordered printed in the Journal:

No. 7981

Frank L. Denison, Appellant,  
vs.

The State of Texas, Appellee.  
Appeal From the District Court  
of Travis County.

James V. Allred, as Attorney General, brought this suit on behalf of the State, in the nature of a quo warranto, against Frank L. Denison

and others to cancel as void a commission issued by the Governor to said Denison as Chairman of the State Highway Commission, and to oust him from said office on the ground that he was unlawfully attempting to exercise the duties and prerogatives thereof. Trial was to the court without a jury, at the conclusion of which the trial court granted the relief prayed for, and entered judgment accordingly, from which Denison has appealed.

The case arose under the following facts and circumstances:

The term of office of Hon. Cone Johnson, Chairman of the State Highway Commission, expired on February 15, 1933. The Governor, on February 1, 1933, the Legislature being then in session, nominated Hon. F. L. Denison as successor to Johnson, and sent his name to the Senate for confirmation as such appointee. The Senate considered said nomination in executive session on February 8, 1933, and on the same day, as directed by the Senate, Bob Barker, Secretary of the Senate, officially notified the Governor in writing that the Senate refused to confirm the appointment of Denison. Thereafter the Governor again submitted to the Senate the name of Denison with request that he be confirmed as Chairman of the State Highway Commission, and after a further consideration of such nomination in executive session on February 23, 1933, the Senate again through its Secretary informed the Governor in writing that it had refused confirmation. On the same day the Governor requested the Senate in writing to give the executive the vote of the Senate in such executive session, i. e. how many senators had voted for and how many against the confirmation of Denison. This the Senate declined to do. On the following day, February 24, the Governor caused to be issued to Denison a duly authenticated commission as Chairman of the State Highway Commission, and on the same day Denison took the oath of office, filed his official bond, and advised the State Comptroller and the State Treasurer not to issue nor pay any further warrants against the Highway Department funds unless same bore his approval.

The foregoing facts are uncontro-

verted and are substantially admitted in appellant's answer. Appellant Denison in his answer made specific denial of certain other allegations of facts as to interference, etc., with the functioning of the Highway Commission; alleged that he was legally confirmed in that a majority of Senators voting in said executive sessions voted to confirm his nomination; that his commission was duly issued, valid and binding; and that he was entitled to discharge the duties and franchises of said office. He further denied that the court had any jurisdiction of this controversy, on the ground that it was and is a matter resting wholly in the power of the executive department to determine under Sec. 1 of Art. II of the Constitution of Texas; that it presented no justiciable fact for determination; and that there being no other claimant to the office, neither the State nor the Attorney General is authorized by law to bring any such suit. He answered further that this controversy presents purely a political matter with which the courts have no concern; and that the relief sought should therefore be denied.

Appellant's first contention is that the courts are without authority to decide the issues presented because to do so would be a judicial encroachment upon the executive department of the Government in violation of Art. II, Sec. 1 of the Constitution, dividing the Government of the State into three distinct departments, and inhibiting the personnel of one department from exercising any power properly attached to either of the others. After citing and quoting from numerous authorities discussing the matter of encroachment by one department of the government upon the duties and functions of another, appellant makes in his brief the following resume of his contentions:

"The Governor, under our constitutional scheme of separate magistracies, has the exclusive power to appoint appellant to the office of Highway Commissioner, and incidentally to interpret the Constitution and statutes governing such matters. She has the exclusive incidental power to determine every fact calling into existence her right to exercise this power and function

as to which neither the Legislature nor the courts have any concern or responsibility. No court can interfere to prevent the appointment, nor can it review or otherwise frustrate the executive act, unless and until some person asserts a right or defense growing out of the act, in a justiciable matter before the court.

"The present proceeding presents no such exception. The matter presented in the so-called quo warranto proceeding pertains solely to a purely governmental matter belonging exclusively to the executive. It does not present a suit, plea, complaint or action of any character invoking juristic action. There is no claimant to the office which appellant holds; there is no contender for the emoluments of the office. No person is asserting a right that is in any wise involved or threatened by his continued tenure. There is no case or suit, for the court to busy itself with."

This contention is not sustained. It is long since well settled that one department of the government cannot interfere with the duties and functions delegated by the Constitution to the other departments of government. But this does not mean that each department is the exclusive and final judge of whether the acts performed by it are authorized by the Constitution. The determination of that question is essentially and fundamentally the province of the courts; and it devolves upon the judiciary "to determine whether the acts of the other two departments are in harmony with the fundamental law." 6 R. C. L., Sec. 68, p. 71; 12 C. J., Sec. 393, p. 895; 9 Tex. Jur., Sec. 42, p. 459. While the other departments of the Government in the exercise of their duties must ordinarily judge of the Constitution for themselves; "The judiciary speaks last upon the subject; and when it has once spoken, if the acts of the other two departments be unauthorized or despotic, in violation of the Constitution or the vested rights of the citizen, they cease to be operative or binding." 6 R. C. L., p. 71. *Idem*, p. 151. In harmony with this fundamental rule and in support of it are the following Texas cases: *H. T. & B. Ry. Co. vs. Randolph*, 24 Tex., 333; *Honey vs. Gra-*

*ham*, 39 Tex., 1; *Ex Parte Rice* (Ct. Cr. Apps.) 162 S. W. 901.

It is elementary, of course, that the courts cannot compel nor restrain action on the part of either the executive or the Legislature in any matter involving the exercise of their discretion; nor can they interfere in any manner with the exercise by these departments of such discretion nor with the discharge within the scope of their authority of any duty delegated to them by the Constitution. But when they have acted, and their acts are called in question as being in contravention of the Constitution, it is the function and duty of the courts to decide that question. This power is not an assumed prerogative, nor any assertion of a superiority of the courts over the other departments of government, but rather a discharge of the duties imposed upon the judiciary by the Constitution itself, under the general scheme of checks and balances upon which our constitutional system of government was conceived and founded.

We think the controversy herein made clearly presents a justiciable matter. The right of appellant to the office he claims, under the facts stated, the law creating the office and the constitution of the State is directly called in question. Nor was it necessary that there be some other claimant to the office at whose instance such suit must be filed. While suits in the nature of quo warranto to try rights to the possession of an office are usually brought by the State at the instance of some interested claimant, obviously under Art. 6253, R. S., such method of bringing such suits is not exclusive. If it were, there could be no relief under this statute against one usurping, intruding himself into, or unlawfully holding an office made vacant by death of the lawful incumbent, or by his abandonment or refusal to serve. The State itself is interested in seeing to it that its offices, of which the one here in controversy has become one of the most important, are held and executed by those lawfully entitled to do so. The statutes controlling such proceedings (Arts. 6253-6258) clearly disclose such purpose, and even when such suit is instituted at the instance of some interested individual the control of

such proceedings on the trial and on appeal is vested expressly and exclusively in the designated officers of the State. *Mathews v. State*, 82 Texas, 581. The procedure prescribed was clearly intended by the Legislature primarily as a method whereby the State could, through the officers therein designated, protect itself and the good of the public generally, either of its own accord or at the instance of some interested party. *Staples v. State*, 112 Texas, 61; 245 S. W., 639. And such proceedings are just as much authorized in the one instance as in the other. Art. 6253, R. S., expressly provides, under the conditions therein named, one of which being that where any person shall usurp or unlawfully hold or execute any office, the Attorney General, or district or county attorney, may, either of his own accord, or at the instance of any individual relator, institute such proceeding in the name of the State.

That the district court had jurisdiction is settled. *State v. DeGress*, 53 Texas, 387; *State v. Manry*, 118 Texas, 449, 16 S. W. (2nd), 809. But appellant contends that such proceeding being strictly a statutory proceeding, which must be instituted in the "proper county," that being the only situs for such litigation designated in the statute, the place of filing such suit is jurisdictional and not a matter of venue; and that this suit, not coming within any of the exceptions to Art. 1995, R. S., and appellant being a resident of Bell County, jurisdiction obtained only in Bell County. We do not sustain this contention. This suit is clearly a civil proceeding triable as other civil cases. Art. 6256, R. S., *State v. DeGress*, supra; *Williams v. State* 69 Texas, 368; *Dean v. State*, 88 Texas, 290. In quo warranto proceedings against corporations under Art. 6253, R. S., venue is authorized by Art. 7431, R. S., in Travis County, or in any district court in the State which the Attorney General may select. The district court is vested with general jurisdiction over such proceedings; and we think it clearly follows that in determining "the district court of the proper county" in which same may be instituted, that question is referable to the general venue statute applicable to "other

civil cases." And the appellant not having filed any plea of privilege or raised that issue by any other plea, must be held to have waived such right, if he were entitled to it. We think, however, that the district court of Travis County was a proper court in which to bring such suit for the reason that the office involved is a State office maintained in Travis County. The Highway Commission maintains its office in Austin, has its hearings in Austin, receives and opens its bids in Austin, and generally discharges the duties imposed upon it by law in Travis County. While the members of such commission may not reside in Travis County, their principal duties are performable there. Art. 6673, 6674, R. S. Under such circumstances we think it is clear that Travis County was a "proper county" in which to bring such suit.

The next proposition urged presents the real issue upon which the suit was brought, and which is determinative of appellant's right to the office he claims. That is, whether or not the advice and consent of the Senate to the Governor's nomination requires a two-thirds vote of the Senators present, or a mere majority vote.

Art. IV, Sec. 12 of the constitution applicable to the uncontroverted facts of this case reads as follows:

"All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law, by appointment of the Governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the Senate present. If made during the recess of the Senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the Senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the Governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the Senate, the Governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the Senate; but may appoint some other person to fill the vacancy until the next session of the

Senate or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter."

Art. 6664, R. S. 1925, creating the Highway Commission, provided:

"The commission shall consist of three citizens of the State. With the advice and consent of the Senate, the Governor shall biennially appoint one member to serve for a term of six years, the classification to continue as constituted by law. The Governor shall designate one such member as Chairman . . . ."

We think the language of Sec. 12, Art. IV. of the constitution is plain, clear, unambiguous and capable of but one construction. That the clause "unless otherwise provided by law" refers to the nominating authority, and has no reference to "the advice and consent of two-thirds of the Senate present." This language clearly contemplates that the Legislature may, should it see fit, provide by law for the filling of offices created by it otherwise than by appointment by the Governor, and that in such event confirmation by the Senate is not essential. When the Commission of Appeals was created by the Thirty-ninth Legislature, Art. 1781, R. S., 1925, it was provided that they should be appointed by the Governor by and with the consent and advice of the Senate. But by the Acts of 1930, Forty-first Legislature, 5th C. S., Ch., 2, p. 112, this power of appointment was taken away from the Governor and vested in the Supreme Court, and confirmation by the Senate of their appointment no longer required. But where appointment, or perhaps nomination for appointment would be more accurate, is not "otherwise provided by law," that power rests with the Governor. And the clear import, language, and requirement of the constitution is that any and every appointment by the Governor to fill a vacancy in a State or district office must be with the advice and consent of two-thirds of the Senate as in said Sec. 12 provided. And when the statute, as does Art. 6664, provides that appointments by the Governor are to be made "with the advice and consent of the Senate," it necessarily

must be interpreted to mean the "advice and consent" contemplated and expressly provided for in the constitution. And where such required advice and consent to such nomination by the Governor is refused, the nominee or appointee is not legally entitled to the office. 46 C. J. 953; 22 R. C. L., 433. These authorities announce such general rule. No authorities, other than the language of the constitution itself, however, are needed. The language, "If rejected, said office shall immediately become vacant, and the Governor shall, without delay make further nominations, until a confirmation takes place," clearly and by necessary implication denies to a nominee, whose confirmation has been rejected by the Senate, any right whatever to occupy the office or to discharge, after such rejection, any of the duties thereof.

But, appellant contends, this provision of the Constitution does not apply in the instant case because there was in contemplation of law, no "vacancy" for the reason that the incumbent of such office, under Article 16, Section 17, of the Constitution, and Article 18, Revised Statutes, holds over until his successor is appointed and qualifies. Hon. Cone Johnson's term of office expired on February 15, 1933. There is considerable conflict of decision in the various states as to whether the expiration of an incumbent's term of office creates a vacancy in the office in question. The holdings in the various courts on this question rest in large measure upon the wording of the particular constitutions and statutes involved. Section 46, C. J. 969, and cases cited; 22 R. C. L. 555; Annotations in 46 L. R. A. N. S., 1202. The question, however, in this State is foreclosed. There has been furnished us a copy of an opinion by Attorney General B. F. Looney given to Hon. James E. Ferguson, while Governor, on February 19, 1917, on facts almost identical with those of the case at bar, wherein in an able and extensive consideration of this question, the Governor was advised that upon the expiration of the term of an appointive office, for the purpose of naming the incumbent's successor therein, a vacancy existed within the

meaning of Section 12 of Article IV of the Constitution. See Ops. Atty. Gen. 1916-1918, p. 392. This conclusion is clearly sustained by the cases of *Tom v. Klepper* (writ ref.) 172 S. W. 721; *Maddox v. York*, 54 S. W. 25, 93 Tex. 275; *State vs. Catlin*, 84 Tex. 48, 19 S. W. 302. See also 46 C. J. 969; *Re Advisory Op. to Governor*, 65 Fla., 434, 50 L. R. A. N. S., 365; *State v. Thomas* (Mo.), 14 S. W. 108; *State v. Williams* (Mo.) 121 S. W. 64. This question was conclusively disposed of we think in the *Klepper* case, and we premit further discussion of it here.

The remaining contentions of appellant relate to the admissibility in evidence of copies of the Senate Journal to show the action of the Senate in executive session upon Denison's confirmation; and whether or not appellant was entitled to show by testimony of the Senators themselves what the vote of the Senate was in executive session.

We deem it unnecessary to discuss these contentions extensively. The action of the Senate in confirming or rejecting a nomination of the Governor for appointment to office is not a legislative act; and consequently the proceeding in executive session and the Senate's record thereof are not analogous in all respects to the rules and proceedings governing the passage of bills and resolutions. Sec. 11 of Article III of the Constitution provides that each house may determine the rules of its own proceedings, Section 12 that it must keep and publish a journal of its proceedings, and Section 16 authorizes executive sessions by the Senate. Senate Rules Nos. 79 to 84 relate to the consideration of Governor's nominations in executive session and make it the duty of the Secretary of the Senate to return the results to the Governor. Rules 87 to 89 provide for, and the method of, keeping the Senate Journal. Rule 89 provides that the record of the executive sessions shall be kept in a separate book, "but the final result of such session shall be placed upon the Journal of the Senate, and the Secretary shall report the same to the Governor." These rules and proceedings were followed in the instant case. There can be no ques-

tion but that the official record of the Senate's action is the best and "conclusive evidence of the matters which they purport to show." 12 C. J. 1084, and cases there cited. Such is the import of the constitutional provisions and of the rules of the Senate adopted pursuant thereto. And the return to the Governor advising that the nomination of Denison was "not confirmed" presents the Senate's interpretation of the constitutional provision governing its conduct, and, as above stated, each department of the government must first judge of the Constitution for itself.

But appellant contends that the recital "not confirmed" presents a mixed question of law and fact, and that he is entitled to go behind such recital and show by parol testimony what the actual vote of the Senate in executive session was, to enable the court to determine whether, as a matter of law, Denison's nomination was confirmed.

We do not find it necessary to decide this issue. The stricken pleadings of appellant, of which he complains, only alleged that he received a majority vote of the Senators present. The proof tendered, which was excluded, and is brought up by bills of exceptions, shows that he received a majority vote of the Senators present, but also shows affirmatively that he did not receive a two-thirds majority vote of the Senators present in either instance when his nomination was voted upon. And when the official record of the Senate, the proper evidence of its proceedings, and which imports verity of its recitals, was introduced and showed that the nomination of Denison had been rejected, the burden was upon Denison to show the contrary. And had his pleadings in that regard not been stricken, and had his proffered testimony been admitted in evidence, he not only would have failed, under our conclusions above announced, to show that his nomination to said office was confirmed by the Senate, but would on the contrary affirmatively have shown that his nomination was not confirmed.

The confirmation of the Senate, it being in session at the time the nomination was made, being essential to the right of appellant to hold the



office in question; and that confirmation being by the Senate refused, that office, under the express language of the Constitution itself became immediately vacant, and could be filled by the Governor only in the method prescribed by the Constitution. The commission issued to appellant by the Governor, notwithstanding his rejection by the Senate, was, therefore, void and vests in him no right to occupy the office claimed by him.

The judgment of the trial court is in all things affirmed.

(Signed) J. H. BAUGH,  
Associate Justice.

Affirmed.

Filed: May 29, 1933.

#### Senate Simple Resolution No. 123.

Senator Poage sent up the following resolution:

Whereas, Because of the interest of the State of Texas in the work of the First Interstate Legislative Assembly the Senate of the State of Texas sent a representative to that Assembly; and

Whereas, Before the next Legislature convenes the Interstate Legislative Assembly will hold its second meeting, and it is the opinion of the Senate of Texas that it should be represented at this second Assembly; Now, therefore, be it

Resolved by the Senate of Texas, That the President of the Senate be and he is hereby authorized to appoint one member of the Senate as the representative of the Senate of Texas until the convening of the Forty-fourth Legislature to represent the Senate of Texas in the Interstate Legislative Assembly and to attend the meetings of that Assembly; Be it further

Resolved, That the necessary expenses of such representative in attending the meetings of the Assembly, be and the same are hereby authorized to be paid out of the contingent funds of the Senate of the State of Texas upon sworn account thereof and approval by the Senate Committee on Contingent Expense, provided that the total of said expenses shall not exceed three hundred (\$300.00) dollars.

POAGE.

Read and referred to the Committee on Contingent Expense.

#### Free Conference Report.

Senator Neal sent up the following free conference committee report:

Committee Room,

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Hon. Coke R. Stevenson, Speaker of the House of Representatives.

Sir: We, your Conferees, appointed to adjust the differences between the Senate and House of Representatives on

S. B. No. 191, A bill to be entitled "An Act authorizing school trustees to issue interest bearing warrants in payment of salaries of employees; specifying that the rate of interest shall not exceed four (4%) per cent per annum; limiting the amount of warrants to be issued; providing for official notice of the issuance of such warrants and for official notice when these warrants can be cashed; giving such warrants preference over ones issued for purposes other than payment of salaries; and declaring an emergency."

Beg to report that the differences have been adjusted, and we recommend the adoption of the bill herewith submitted.

NEAL,  
DUGGAN,  
FELLBAUM,  
REDDITT,  
GREER,

On the part of the Senate.

KAYTON,  
COOMBES,  
ADAMSON,  
TENNYSON,  
VAN ZANDT.

On the part of the House.

By Neal.

S. B. No. 191.

#### A BILL

##### To Be Entitled

An Act authorizing school trustees to issue interest bearing warrants in payment of salaries of employees; specifying that the rate of interest shall not exceed four per cent per annum; limiting the amount of warrants to be issued; providing for official notice of the issuance of such warrants and for official notice when these warrants can be cashed; providing for method of computing

amount of warrants; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The trustees of independent school districts and of common school districts are hereby authorized to issue interest bearing warrants in payment of salaries of all persons employed in the conduct of the public schools in the State of Texas.

Sec. 2. All warrants issued under the provisions of Section 1 of this Act shall bear interest at not more than four per cent (4%) per annum from the date of issuance; provided, that no warrant that has been issued and sold by the holder thereof at a discount prior to the passage of this Act shall bear interest.

Sec. 3. The total amount of warrants which may be issued under the provisions of this Act, together with all other warrants theretofore issued for the current expenses of the schools in any district during any particular year, shall not exceed eighty per cent (80%) of the estimated proceeds of the local maintenance tax, as shown by the budget, and as determined by the county board and the county superintendent in the case of common school districts, and the city superintendent and trustees of the individual independent districts, in the case of independent districts, together with not more than sixty (60) per cent of the total per capita apportionment to be received from the State of Texas during the current scholastic year.

Sec. 4. It shall be the duty of the county superintendent of schools, or the secretary of the school board of each independent school district, to number numerically and record each such interest bearing warrant, and to give official notice of its issuance to the proper depository, and it shall be the duty of such depository to notify the county superintendent or the secretary of the independent school district when sufficient funds are in its hands to the credit of such district to liquidate these warrants, and such warrants issued for the payment of salaries shall be paid numerically.

Sec. 4-a. None of the provisions of this Act shall be of any force

and or effect from and after August 31, 1935.

Sec. 5. The fact that in many portions of the State the school boards are unable to finance the schools for the desired term of months each year because of the large amount of delinquent taxes due and owing to them and because of the inability to enforce the collection of delinquent taxes by such school boards due to depressed economic conditions and because of the fact that there is no law providing for the issuance of interest bearing warrants by school boards in payment of salaries in the event the tax collections are less than normally anticipated, and the fact that the funds to be received from the State of Texas for any scholastic year are frequently delayed and not paid over to such school boards until after the expiration of the scholastic year, creates an emergency and an imperative public necessity which requires the constitutional rule providing that bills be read on three several days be suspended, and said rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

#### Free Conference Report.

Senator DeBerry sent up the following free conference committee report to be printed in the Journal:

Committee Room,

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Hon. Coke R. Stevenson, Speaker of the House of Representatives.

Sirs: We, your Free Conference Committee, appointed to adjust the differences between the two Houses on S. B. No. 209,

Have had the same under consideration, and we recommend that said bill be passed in form, substance and text as submitted herewith.

DeBERRY,

NEAL,

MOORE,

PURL,

WOODUL,

On the part of the Senate.

SAVAGE,

CAMP,

DEAN,

VAN ZANDT,

On the part of the House.

S. B. No. 209.

## A BILL

## To Be Entitled

An Act amending Article 3883, Revised Civil Statutes of 1925, as amended by Chapter 340, Acts of the Regular Session, Forty-second Legislature; and amending Article 3891, Revised Civil Statutes of 1925, as amended by Chapter 368, Acts of the Regular Session, Forty-second Legislature; and amending Article 3902, Revised Civil Statutes of 1925, as amended by Chapter 214, Acts of the Regular session, Forty-second Legislature, providing the maximum and excess fees which all officers named herein shall be entitled to receive and retain and the disposition to be made of the remainder; fixing the maximum compensation to be paid deputies, assistants and clerks and the manner in which same may be appointed and paid; amending Article 3899, Revised Civil Statutes of 1925; and amending Article 3886 of the Revised Civil Statutes of 1925, as amended by Chapter 20, Acts of the Fourth Called Session, Forty-first Legislature; and amending Article 3887 of the Revised Civil Statutes of 1925, as amended by Chapter 326, Acts of the Regular Session, Forty-second Legislature; and amending Article 3895, Revised Civil Statutes of 1925, by providing that ex-officio shall only be allowed after public hearing and upon the affirmative vote of at least three members of the commissioners court; providing that this Act shall become effective on and after January 1, 1934; repealing Article 3883a, Revised Civil Statutes of 1925, Chapter 174, Special Laws passed by the Regular Session, Forty-second Legislature, Chapter 34, Acts of the Second Called Session, Forty-second Legislature, Chapter 97, Acts of the First Called Session, Forty-first Legislature, Chapter 12, Acts of the Regular Session, Forty-first Legislature, Chapter 146, Special Laws passed by the Regular Session, Forty-second Legislature, Chapter 55, Acts of the Second Called Session, Forty-first Legislature, Chapter 272, Acts of the Regular Session, Fortieth Legislature, Chapter 58, Acts of the Second Called Session, Forty-first Legislature, Chapter 271, Acts of

the Regular Session, Fortieth Legislature, Chapter 336, Acts of the Regular Session, Forty-second Legislature, Chapter 330, Acts of the Regular Session, Forty-second Legislature, and all other laws or parts of laws, special or general, fixing or attempting to fix the compensation of the officers enumerated herein, or the salaries of deputies or assistants inconsistent with the provisions hereof; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 3883 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 340, Acts of the Regular Session of the Forty-second Legislature, be and the same is hereby amended so as to hereafter read as follows:

Article 3883. Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county and district officers mentioned in this article shall be as follows:

1. In counties containing twenty-five thousand (25,000) or less inhabitants: County judge, district or criminal district attorney, sheriff, county clerk, county attorney, district clerk, tax collector, tax assessor, or the assessor, and collector of taxes, twenty-four hundred (\$2400.00) dollars each; justice of the peace and constable, twelve hundred (\$1200.00) dollars each.

2. In counties containing as many as twenty-five thousand and one (25,001) and not more than thirty-seven thousand five hundred (37,500) inhabitants, and in which there is no city containing twenty-five thousand (25,000) inhabitants: County judge, district or criminal district attorney, sheriff, county clerk, county attorney, district clerk, tax collector, tax assessor, or the assessor and collector of taxes, twenty-seven hundred and fifty (\$2750.00) dollars each; justice of the peace and constable, fifteen hundred (\$1500.00) dollars each.

3. In counties containing as many as thirty-seven thousand five hundred and one (37,501) and not more than sixty thousand (60,000) inhabitants, or containing a city of over twenty-five thousand (25,000) inhabitants: County judge, district or criminal district attorney, sheriff, county clerk, county attorney, district clerk, tax collector, tax assessor,

or the assessor and collector of taxes, thirty-five hundred (\$3500.00) dollars each; justice of the peace and constable, eighteen hundred (\$1800.00) dollars each.

4. In counties containing sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants: County judge, district or criminal district attorney, sheriff, county clerk, county attorney, district clerk, tax collector, tax assessor, or the assessor and collector of taxes, four thousand (\$4000.00) dollars each; justice of the peace and constable, twenty-one hundred (\$2100.00) dollars each.

5. In counties containing as many as one hundred thousand and one (100,001) and not more than one hundred and fifty thousand (150,000) inhabitants: County judge, district or criminal district attorney, sheriff, county clerk, county attorney, district clerk, tax collector, tax assessor, or the assessor and collector of taxes, forty-five hundred (\$4500.00) dollars each; justice of the peace and constable, twenty-five hundred (\$2500.00) dollars each.

6. In counties containing as many as one hundred and fifty thousand and one (150,001) or more inhabitants: County judge, district or criminal district attorney, sheriff, county clerk, county attorney, district clerk, tax collector, tax assessor, or the assessor and collector of taxes, fifty-five hundred (\$5500.00) dollars each; justice of the peace and constable, three thousand (\$3000.00) dollars each.

Provided, however, in any county in this State having a population less than thirty-five thousand (35,000) inhabitants, and which has a tax valuation exceeding forty million (\$40,000,000.00) dollars, according to the last tax roll, approved as required by law, the officers herein enumerated shall receive the maximum set forth in Section 3 of Article 3883 as herein amended, and shall also receive excess fees as provided in counties containing a population of between thirty-seven thousand five hundred and one (37,501) and less than sixty thousand (60,000) inhabitants, as provided in Article 3891 as herein amended.

Compensation herein fixed for sheriff of any county shall be exclusive of any reward or rewards received for the apprehension of criminals or fugitives from justice,

and rewards received for the recovery of stolen property. The maximum fixed for the compensation of each district or criminal district attorney shall be inclusive of the salary allowed by the Constitution. However, the maximum herein fixed for district or criminal district attorneys applies only to those district or criminal district attorneys receiving their compensation under the provisions of Articles 1024 and 1025 of the Code of Criminal Procedure, 1925, and shall not apply to district attorneys in judicial districts composed of two or more counties whose compensation is otherwise provided.

Sec. 2. That Article 3891 of the Revised Civil Statutes of 1925 as amended by Chapter 368, Acts of the Regular Session of the Forty-second Legislature, be and the same is hereby amended so as to hereafter read as follows:

Article 3891. Each officer named in this chapter shall first out of the current fees of his office pay or be paid the amount allowed him under the provisions of Article 3883, together with the salaries of his assistants and deputies, and authorized expenses under Article 3899, and the amount necessary to cover costs of premium on whatever surety bond may be required by law. If the current fees of such office collected in any year be more than the amount needed to pay the amounts above specified, same shall be deemed excess fees, and shall be disposed of in the manner hereinafter provided.

In counties containing twenty-five thousand (25,000) or less inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amounts specified in Article 3883, amounts to three thousand (\$3,000.00) dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to fourteen hundred (\$1400.00) dollars.

In counties containing as many as twenty-five thousand and one (25,001) and not more than thirty-seven thousand five hundred (37,500) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount

specified in Article 3883, amounts to thirty-five hundred (\$3500.00) dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to eighteen hundred (\$1800.00) dollars.

In counties containing as many as thirty-seven thousand five hundred and one (37,501) and not more than sixty thousand (60,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to forty-two hundred and fifty (\$4250.00) dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to twenty-two hundred (\$2200.00) dollars.

In counties containing sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to forty-seven hundred and fifty (\$4750.00) dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to twenty-six hundred (\$2600.00) dollars.

In counties containing as many as one hundred thousand and one (100,001) and not more than one hundred fifty thousand (150,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to fifty-five hundred (\$5500.00) dollars. Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to three thousand (\$3000.00) dollars.

In counties containing as many as one hundred fifty thousand and one (150,001) or more inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to sixty-five hundred (\$6500.00) dollars. Precinct officers shall retain one-third

until such one-third, together with the amount specified in Article 3883, amounts to four thousand (\$4000.00) dollars.

All current fees earned and collected by officers named in Article 3883 during any fiscal year in excess of the maximum and excess allowed by this Act, and for their services and for the services of their deputies and assistants and authorized expenses, together with all delinquent fees collected and not used as provided in Article 3892, or used to pay salaries of deputies and assistants when current fees are insufficient, shall be paid into the county treasury in the county where the excess accrued.

All fees due and not collected, as shown in the report required by Article 3897, shall be collected by the officer to whose office the fees accrued and shall be disposed of by said officer in accordance with the provisions of this Act.

The compensations, limitations and maximums herein fixed in this act for officers shall include and apply to all officers mentioned herein in each and every county of this State, and it is hereby declared to be the intention of the Legislature that the provisions of this act shall apply to each of said officers, and any special or general law inconsistent with the provision hereof is hereby expressly repealed in so far as the same may be inconsistent with this act.

The compensations, limitations and maximums herein fixed shall also apply to all fees and compensation whatsoever collected by said officers in their official capacity whether accountable as fees of office under the present law, and any law, general or special, to the contrary is hereby expressly repealed. The only kind and character of compensation exempt from the provisions of this Act shall be rewards received by sheriffs for apprehension of criminals or fugitives from justice and for the recovery of stolen property, and moneys received by county judges and justices of the peace for performing marriage ceremonies, which sum shall not be accountable for and not required to be reported as fees of office.

Sec. 3. That Article 3902 of the

Revised Civil Statutes of 1925, as amended by Chapter 214, Acts of the Regular Session of the Forty-second Legislature, be and the same is hereby amended so as to hereafter read as follows:

Article 3902. Whenever the county judge, sheriff, county clerk, county attorney, district or criminal district attorney, district clerk, tax collector, tax assessor, or the assessor and collector of taxes, justice of the peace or constable shall require the services of deputies, assistants or clerks in the performance of his duties, he shall apply to the county commissioners court of his county for authority to appoint such deputies, assistants or clerks, setting out by sworn application the number needed, the position sought to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts and disbursements of the office; and said court may make its order authorizing the appointment of such deputies, assistants and clerks and fix the compensation to be paid them and determine the number to be appointed; provided, that in no case shall the commissioners court or any member thereof attempt to influence the appointment of any person as deputy, assistant or clerk in any office. Upon the entry of such order the officers applying for such deputies shall be authorized to appoint them as provided by law: provided that said compensation shall not exceed the maximum amount hereinafter set out. The maximum compensation which may be allowed to a deputy, assistant or clerk to the officers above named, for their services, shall be as follows:

1. In counties having a population of twenty-five thousand (25,000) or less inhabitants, first assistant or chief deputy, not to exceed eighteen hundred (\$1800.00) dollars per annum; other assistants, deputies or clerks not to exceed fifteen hundred (\$1500.00) dollars per annum each.

2. In counties having a population of twenty-five thousand and one (25,001) and not more than thirty-seven thousand five hundred (37,500) inhabitants, first assistant or chief deputy not to exceed two

thousand (\$2000.00) dollars per annum; other assistants, deputies or clerks not to exceed seventeen hundred (\$1700.00) dollars per annum each.

3. In counties having a population of thirty-seven thousand five hundred and one (37,501) and not more than sixty thousand (60,000) inhabitants, first assistant or chief deputy not to exceed twenty-one hundred (\$2100.00) dollars per annum; other assistants, deputies or clerks not to exceed eighteen hundred (\$1800.00) per annum each.

4. In counties having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants; first assistant or chief deputy not to exceed twenty-four hundred (\$2400.00) dollars per annum; other assistants, deputies or clerks not to exceed twenty-one hundred (\$2100.00) dollars per annum each.

5. In counties having a population of one hundred thousand and one (100,001) and not more than one hundred fifty thousand (150,000) inhabitants; first assistant or chief deputy not to exceed twenty-six hundred (\$2600.00) dollars per annum; other assistants, deputies or clerks not to exceed twenty-three hundred (\$2300.00) dollars per annum each.

6. In counties having a population of one hundred fifty thousand and one (150,001) or more inhabitants; first assistant or chief deputy not to exceed three thousand (\$3000.00) dollars per annum; other assistants, deputies or clerks not to exceed twenty-four hundred (\$2400.00) dollars each, except as otherwise provided in this Act.

Heads of departments may be allowed by the commissioners court, when in their judgment such allowable is justified, the sum of two hundred (\$200.00) dollars per annum in addition to the amount hereinbefore authorized, when such heads of departments sought to be appointed shall have previously served the county or political subdivision thereof for not less than two continuous years; provided, that no heads of departments shall be created except where the person sought to be appointed shall be in actual charge thereof, with deputies or assistants under his supervision, or a depart-

ment approved by the court, and only in offices capable of a bona fide subdivision into departments.

The commissioners court in each order granting authority to appoint deputies, assistants or clerks shall state the number authorized and the amount of compensation to be allowed each deputy, assistant or clerk, which compensation shall be paid out of the fees of the office to which such deputy, assistant or clerk may be appointed and assigned, and the compensation so paid shall not be included in estimating the maximum fees of the officers herein named. The salaries referred to shall not be paid by the county unless otherwise provided herein, but are to be paid out of the fees of the office in the following manner: First, out of any current fees collected; second, if such fees are not sufficient, then out of any delinquent fees collected which are due the county after the legal deductions provided for in Article 3892 are made, and if there be any balance remaining after payment of the maximum and excess fees due such officer or officers and the compensation of such deputies, assistants or clerks, such balance shall be paid to the County Treasurer.

Provided that the above provision shall not be construed as in any way repealing or affecting the provision of Chapter 280, Acts of the Regular Session of the Forty-second Legislature, relative to appointment of deputy constables, or as repealing or affecting Article 6869, Revised Civil Statutes, 1925, as amended by Chapter 113, Acts of the First Called Session of the Forty-first Legislature, or as repealing or affecting the provisions of House Bill 7, passed by the Regular Session of the Forty-third Legislature.

In counties having a population in excess of one hundred fifty thousand (150,000) inhabitants, the district clerk, with the approval and consent of the county commissioners court, shall appoint a deputy district clerk to serve under the presiding district judge in setting and disposing of cases on the general jury docket, and said deputy district clerk shall receive as compensation for his services so rendered, a salary not to exceed three thousand (\$3000.00) dollars per annum, payable monthly

by warrant drawn on the general fund of the county.

All laws and parts of laws, General or Special, relating to the compensation of deputies and assistants, or relating to the expense accounts of the officers named herein or their deputies or assistants, are hereby expressly repealed, it being intended that this Act shall apply to the salaries of deputies, assistants and clerks of each of the officers named herein in each and every county of this State except as otherwise provided in this Act.

Sec. 4. Article 3899 of the Revised Civil Statutes of 1925 be and the same is hereby amended so as to hereafter read as follows:

Article 3899. At the close of each month of his tenure of such office, each officer whose fees are affected by the provisions of this Act shall make as a part of the report now required by law, an itemized and sworn statement of all the actual and necessary expenses incurred by him in the conduct of his office, such as stationery, stamps, telephone, traveling expense and other necessary expense. If such expense be incurred in connection with any particular case, such statement shall name such case. Such expense account shall be subject to the audit of the county auditor, if any, otherwise by the commissioners court; and if it appears that any item of such expense was not incurred by such officer, or that such item was not necessary thereto, such item may be by such auditor or court rejected, in which case the correctness of such item may be adjudicated in any court of competent jurisdiction. The amount of such expense referred to in this paragraph shall not be taken to include the salaries of assistants or deputies which are elsewhere herein provided for. The amount of such expense shall be deducted by the officer in making each such report from the amount of current fees, if any, due by him to the county under the provisions of this law. The commissioners court of the county of the sheriff's residence may upon the written and sworn application of the sheriff stating the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of his official duties, which if purchased shall be

bought by the county in the manner prescribed by law for the purchase of supplies, and paid for out of the general fund, and they shall be and remain the property of the county. The expense of the maintenance of operation of such automobile or automobiles as may be allowed, whether purchased by the county or owned by the sheriff or his deputies personally, shall be paid for by the sheriff, provided, however, that the commissioners court shall not allow an excess of the total sum of fifty (\$50.00) dollars per month expenses for the operation and depreciation on cars owned by the sheriff or his deputies, personally, and the amount thereof shall be reported by the sheriff on the report above provided for, and shall be deducted by him from the amount, if any, due by him to the county in the same manner as the other expenses are deducted which is provided for in this Act.

Sec. 5. Article 3886 of the Revised Civil Statutes of 1925, as amended by Chapter 20, Acts of the Fourth Called Session of the Forty-first Legislature, is hereby amended so as to hereafter read as follows:

Article 3886. In any county having a population in excess of one hundred fifty thousand (150,000) and less than three hundred fifty-five thousand (355,000) inhabitants, the district attorney, or criminal district attorney and county attorney, may appoint not exceeding eight assistant district attorneys, two of whom shall receive a salary not to exceed four thousand two hundred fifty (\$4 250.00) dollars per annum each; two of whom shall receive a salary not to exceed thirty-six hundred (\$3600.00) dollars per annum each; four of whom shall receive a salary not to exceed three thousand (\$3000.00) dollars per annum each. He may appoint two stenographers, one of whom shall receive a salary not to exceed eighteen hundred (\$1800.00) dollars per annum, and one of whom shall receive a salary not to exceed fifteen hundred (\$1500.00) dollars per annum. He may appoint two investigators, who shall receive a salary not to exceed twenty-four hundred (\$2400.00) dollars per annum. He may appoint one court reporter who shall receive a salary not to exceed twenty-four

hundred (\$2400.00) dollars per annum. In addition to the above, each county attorney in said counties shall be authorized to appoint not exceeding seven assistant county attorneys, two of whom shall receive a salary not to exceed thirty-six hundred (\$3600.00) dollars per annum each; two of whom shall receive a salary not to exceed three thousand (\$3,000.00) dollars per annum each; three of whom shall receive a salary not to exceed twenty-four hundred (\$2400.00) dollars per annum each. The salaries of all such assistants, stenographers and investigators hereinbefore provided for in this Article shall be paid monthly by said counties by warrant drawn upon the general funds thereof. Should such district attorney or criminal district attorney or county attorney be of the opinion that the number of assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime in the efficient performance of the duties of said office, he may, with the advice and consent of the county commissioners court, appoint not to exceed seven such additional assistants and employees and fix their salaries, provided such salaries shall not, in any event, exceed three thousand (\$3,000.00) dollars per annum each, but such additional assistants or employees so appointed before qualifying and entering upon the duties of such office and employment shall be approved as to number and salary by the commissioners court of the county in which such appointments were made. The salaries of such additional assistants and employees shall be paid monthly out of the excess fees collected by such district attorney, or criminal district attorney, or county attorney which would otherwise go to said county. In no event shall said county be liable for the salaries of such additional assistants or employees; provided, however, in any county having a population in excess of three hundred fifty-five thousand (355,000) inhabitants the criminal district attorney shall be authorized to appoint eleven assistant district attorneys; two of whom shall receive a salary not to exceed four thousand two hundred fifty (\$4250.00) dollars per annum each; two of whom shall receive a salary



not to exceed thirty-six hundred (\$3600.00) dollars per annum each; the balance of whom shall receive a salary not to exceed three thousand (\$3000.00) dollars per annum each. He may employ two court reporters at a salary not to exceed twenty-four hundred (\$2400.00) dollars per annum each. He may employ three stenographers, each of whom shall receive a salary not to exceed sixteen hundred and twenty (\$1620.00) dollars per annum. He may employ three investigators who shall receive a salary not to exceed eighteen hundred (\$1800.00) dollars per annum each. He may employ one information clerk who shall receive a salary not to exceed nine hundred (\$900.00) dollars per annum. The salaries of such assistants, stenographers, investigators and clerk above provided for shall be paid monthly by said counties by warrant drawn upon the general funds thereof. Should such district attorney or criminal district attorney be of the opinion that the number of assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime and the efficient performance of the duties of said office, he may, with the advice and consent of the county commissioners court, appoint not to exceed nine additional assistants and employees and fix their salaries, provided such salaries shall in no event exceed three thousand (\$3000.00) dollars per annum each, but such additional assistants or employees so appointed before qualifying and entering upon the duties of such office and employment shall be approved as to number and salary by the commissioners court of the county in which such appointments are made. The salaries for such additional assistants and employees shall be paid monthly out of the excess fees collected by such district attorney and his office which would otherwise go to said county. Each of the officers named herein shall be subject to the provisions of Article 3883 and 3891 in so far as the retention of the maximum and excess fees is concerned, and each shall file the sworn report required by Article 3897 giving a detailed and itemized statement of all fees collected and the purposes for which the same were used, pro-

vided that nothing in this Act shall be construed as repealing or affecting House Bill No. 875, passed by the Regular Session of the Forty-third Legislature.

Sec. 6. Article 3887 of the Revised Civil Statutes of 1925, as amended by Chapter 326, Acts of the Regular Session Forty-second Legislature, is hereby amended so as to read hereafter as follows:

Article 3887. In any county having a population of one hundred thousand (100,000) or less, and containing a city having a population in excess of fifty thousand (50,000), in which county there is no district attorney, the county attorney may appoint not to exceed three assistant county attorneys, two of whom shall receive a salary not to exceed Two Thousand Seven Hundred (\$2700.00) Dollars per annum each, and one of whom shall receive a salary of not to exceed Two Thousand One Hundred (\$2100.00) Dollars per annum. He may appoint an investigator who shall receive a salary not to exceed One Thousand Eight Hundred (\$1800.00) Dollars per annum. He may appoint a stenographer who shall receive a salary not to exceed One Thousand Five Hundred (\$1500.00) Dollars per annum. The salaries of such assistants, investigator and stenographer shall be paid monthly by said county by warrants drawn on the general fund thereof. Any such assistant, investigator or stenographer shall be subject to removal at the will of such county attorney. All fees collected by such county attorney, including fees for representing the State in criminal actions in corporation courts, shall be accountable for and disposed of in the manner provided in this chapter.

In any county having a population of more than one hundred thirty thousand (130,000) and less than one hundred fifty thousand (150,000), and containing two cities of fifty thousand (50,000) population or more each, in which county there is no district attorney, the commissioners court may, should the fees of the county attorney's office be insufficient to pay the compensation allowed herein to such officer, and also pay the allowable expenses as otherwise provided in this Act and

the salaries of such deputies, assistants and employees of such office as the commissioners court may determine are necessary to properly perform the duties and carry on the affairs of the office, allow the payment of such portion of such expenses and salaries out of the general fund of the county as in their judgment may be necessary.

Sec. 7. Article 3895 of the Revised Civil Statutes of 1925 is hereby amended so as to hereafter read as follows:

Article 3895. The commissioners court is hereby debarred from allowing compensation for ex officio services to county officials when the compensation and excess fees which they are allowed to retain shall reach the maximum provided for in this chapter. In cases where the compensation and excess fees which the officers are allowed to retain shall not reach the maximum provided for in this chapter, the commissioners court shall allow compensation for ex officio services when, in their judgment, such compensation is necessary, provided, such compensation for ex-officio services allowed shall not increase the compensation of the official beyond the maximum of compensation and excess fees allowed to be retained by him under this chapter. Provided, however, the ex-officio herein authorized shall be allowed only after an opportunity for a public hearing and only upon the affirmative vote of at least three members of the commissioners court.

Sec. 8. This Act shall become effective on and after January 1, 1934.

Sec. 9. Article 3883a, Revised Civil Statutes, 1925; Chapter 34, Acts of the Second Called Session of the Forty-second Legislature; Chapter 97, Acts of the First Called Session of the Forty-first Legislature; Chapter 12, Acts of the Regular Session of the Forty-first Legislature; Chapter 146, Special Laws passed by the Regular Session of the Forty-second Legislature; Chapter 55, Acts of the Second Called Session of the Forty-first Legislature; Chapter 272, Acts of the Regular Session of the Fortieth Legislature; Chapter 58, Acts of the Second Called Session of the Forty-first Legislature; Chapter 271, Acts of the Regular Session of the Fortieth Legislature; Chapter

336, Acts of the Regular Session of the Forty-second Legislature; Chapter 330, Acts of the Regular Session of the Forty-second Legislature, together with all other General and Special laws fixing or attempting to fix the compensation of officers enumerated herein or the salaries or number of deputies or assistants are hereby in all things repealed.

Sec. 10. The present economic conditions, together with a large amount of fees allowed to be retained by certain county officers, together with a desirability of having a general fee bill applying to all officers named herein in each and every county in this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended, and it is so enacted.

#### Senate Bill No. 412.

Senator Martin called up from the table the Free Conference Committee report on the following bill:

By Senator Martin:

S. B. No. 412, A bill to be entitled "An Act for the purpose of strengthening and providing for a stronger and more efficient administration and enforcement of all inheritance, occupation, gross receipts, gross production taxes, gross premium taxes on insurance companies, gasoline, excise, sales, and all other State's taxes, including intangible, and all character of delinquent State taxes other than ad valorem taxes on property; providing for an appropriation for the use of the State Tax Board and the State Tax Commissioner, for the purpose of assisting in the enforcement and collection of such taxes, particularly delinquent taxes, other than ad valorem taxes on property; amending Article 7076, Chapter 2, Title 122, of the Revised Civil Statutes, 1925, so as to confer additional powers and authority upon the State Tax Board and the State Tax Commissioner in the collection of delinquent taxes; etc., and declaring an emergency."

#### Recess.

On motion of Senator Rawlings, the Senate, at 5:28 o'clock p. m., recessed until 9:30 o'clock tomorrow morning.

**APPENDIX.****Committee on Enrolled Bills.**

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. J. R. No. 13 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 20 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 395 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 492 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

**Committee on Engrossed Bills.**

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 574 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

**Committee Reports.**

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 936, A bill to be entitled "An Act making it unlawful to take, sell or barter, or to offer to sell or

barter, any minnows from the fresh waters of Panola and Rusk Counties; providing a penalty for the violation of this Act; repealing all laws and parts of laws in conflict, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

REDDITT, Chairman.

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 574, A bill to be entitled "An Act transferring from the credit of certain special accounts in the Comptroller's Office to the credit of the General Revenue Fund certain unexpended balances appropriated under the terms and provisions of H. B. No. 397, at the Regular Session of the Forty-second Legislature, 1931."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

HOLBROOK, Chairman.

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 31, Proposing an amendment to Section 5 of Article 3 and Section 24 of Article 3 of the Constitution of the State of Texas.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

MURPHY, Vice-Chairman.

Committee Room,  
Austin, Texas, May 29, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 956, A bill to be entitled "An Act amending Article 322 of the 1925 Revised Civil Statutes of Texas, same being Acts of 1927, Fortieth Legislature, page 222, Chapter 151, by omitting the word 'fortieth,' which same is the Fortieth Judicial District of Ellis County, Texas; de-

claring that it is the intent of this Act to affect only the Fortieth District and not to affect any other district; declaring the intent of the Legislature in the passage of H. B. No. 411, Regular Session of the Forty-third Legislature to have been to affect only the Fortieth District, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

WOODWARD, Chairman.

Committee Room.

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. C. R. No. 28, Providing for the designation of some outstanding and recognized poet, who is a citizen of Texas, who shall be poet laureate of the State of Texas for a period of two years from such appointment and designation.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

NEAL, Chairman.

Committee Room.

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Public Lands and Land Office, to whom was referred

H. B. No. 925, A bill to be entitled "An Act to invest within the Board of Control the authority to make such oil and gas or mineral lease of certain land in Polk County, Texas, now owned and occupied by the Alabama and Coushatti Indians; providing for notice to be given of intention to make such lease; providing for lease to be let for highest sum offered, and for the money so received in payment of lease, and on any oil, to be placed in the State Treasury to the credit of said Indians to be spent by and within the discretion of the Board of Control; providing all income from pipeline rights of way easements or from oil

and gas leases shall be deposited in the State Treasury in a special permanent fund to be known as the 'Alabama and Coushatti Indian Fund;' providing said Fund shall be invested as provided in Chapter 231, General Laws, Regular Session Forty-second Legislature and the income derived therefrom shall be used for support, maintenance and education of said tribes of Indians; declaring it to be the policy of the State to continue to act as guardian and trustee of persons and estates of said tribes as long as they remain inhabitants of the State of Texas, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WOODRUFF, Chairman.

Committee Room.

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 363, Making appropriations totalling \$5,872.78, to pay certain miscellaneous claims.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

HOLBROOK, Chairman.

Committee Room.

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 241, Making appropriations to pay certain miscellaneous claims arising from the destruction of stock and property in the eradication of the hoof and mouth disease in Harris, Brazoria and Galveston Counties.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with committee amendment, and that it be printed in the Journal and not in bill form.

HOLBROOK, Chairman.

## Committee Amendment No. 1.

Amend H. B. No. 241 by inserting the following in Section 1, after claim No. 197:

Claim No.	Name.	Amount.
198	J. A. Sandstrom, Arcadia, Texas	\$ 797.64
199	Mrs. C. F. Beusch, Pasadena, Texas	405.92
200	Mrs. Mary Edming, Pasadena, Texas	243.00
201	J. A. Endicott, Pasadena, Texas	416.00
202	Oscar Kruze, Pasadena, Texas	970.94
203	S. Garnuch, Pasadena, Texas	793.12
204	Chas. E. Syfan, Pasadena, Texas	1,931.80
205	B. F. Williams, Pasadena, Texas	225.00
206	Mrs. A. L. Pomeroy, Pasadena, Texas	50.00

By Mackay, et al.

H. B. No. 241.

A BILL  
To Be Entitled

An Act making appropriations to pay miscellaneous claims against the State of Texas and authorizing payment of said miscellaneous items on taking effect of this Act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The following sum of money One Hundred Twenty-one Thousand, Nine Hundred Fifteen Dollars (\$121,915.00) is hereby appropriated out of the General Fund not otherwise appropriated for the payment of the following approved miscellaneous claims arising from the destruction of stock and property in the eradication of the Hoof and Mouth Disease in Harris, Brazoria and Galveston Counties, Texas:

Claim No.	Name.	Amount.
1	Shannon, W. C., Arcadia	\$ 125.00
2	Holbert, C. E., Arcadia	575.00
3	Peterson, Axel, South Houston	297.00
4	Flora, Mrs. L., Algoa	585.00
5	Walker, W. L., Arcadia	1,620.00
6	Thompson, Robert, Alta Loma	180.00
7	Nelson, Fred, Alta Loma	210.00
8	Meadows, G. W., Arcadia	60.00
9	Rommers, G. H., Algoa	1,653.00
10	Hill, J. T., Arcadia	450.00
11	Murdock, E. C., Arcadia	100.00
12	Mackay, Henry, Algoa	355.00
13	Holloway, Wm., Arcadia	1,050.00
14	Sandstrom, G. A., Arcadia	850.00
15	Myles, Mrs. L., Arcadia	798.00
16	Shannon, T. J., Arcadia	650.00
17	Moore, J. A., Arcadia	2,100.00
18	Dyer, W. C., Arcadia	140.00
19	Hall, W. E., Algoa	100.00
20	Baty, Mrs. John, Arcadia	648.00
21	Peurshot, F. S., Arcadia	95.00
22	Stockwell, H. E., Arcadia	1,800.00
23	Cole, E. M., Alta Loma	400.00
24	Dyer, W. F., Arcadia	400.00
25	Jackson, Mrs. F. W., Arcadia	845.00
26	French, Mrs. T. F., Arcadia	550.00
27	Rezek, John, Algoa	180.00
28	Campbell, J. J., Algoa	100.00
29	Tully, Andrew, Arcadia	100.00
30	Flora, Paul, Algoa	2,550.00
31	Meeks, J. C., Arcadia	1,049.00
32	Stavelly, Mrs. M. E., Arcadia	550.00

Claim No.	Name.	Amount.
33	Moore, Guy, Arcadia	2,200.00
34	Cox, J. H., Arcadia	1,464.00
35	Day, Mrs. A. E., Arcadia	75.00
36	Kubin, Frank, Alvin	369.00
37	Trantow, Fred, Algoa	125.00
38	Gilbert, J. E., Arcadia	1,200.00
39	Bishop, L. B., Arcadia	120.00
40	Schultze, B. F., Arcadia	2,000.00
41	Truske, Frank, Alvin	379.00
42	Braver & Gibson, Arcadia	375.00
43	Goddard, J. G., Algoa	200.00
44	Youngblood, G. H., Alta Loma	702.00
45	Schoenfeldt, Wm., Arcadia	640.00
46	Hillerman, Chas., Arcadia	300.00
47	Ward, Miss Jenny G., Alvin	90.00
48	Leary, John W., Arcadia	1,241.00
49	Neschyba, Mrs. J. W., Arcadia	960.00
50	Clutter, John, Alvin	1,650.00
51	Dent, Mrs. M. E., Arcadia	453.00
52	Liening, B. H., Dickinson	1,575.00
53	Leary Bros., Arcadia	1,883.00
54	Linkey, J. A., Arcadia	800.00
55	Chiles, Mrs. Edgar, Arcadia	900.00
56	McPeters, Mrs. W. M., Arcadia	940.00
57	Travis, Mrs. J. E., Arcadia	67.00
58	Palmo, Mrs. C., Arcadia	250.00
59	Schock, Edwin, Alvin	2,150.00
61	Schmidt, G. C., Arcadia	1,423.00
62	Thomas, C. R., Arcadia	750.00
63	Almon, Z. M., Algoa	250.00
64	Harris, A. W., Arcadia	1,070.00
65	Ward, R. E., Alvin	275.00
66	Palmer, J. A., Algoa	2,490.00
67	Edwards, Jim., Algoa	1,105.00
68	Keeling, H. S., Algoa	244.00
69	Tacquard, J. M., Alvin	7,050.00
70	Trantow, Albert, Alvin	475.00
71	Weiting, W. O., Alvin	103.00
72	Scruggs, T. C., Algoa	1,730.00
73	Powers, E. A., Arcadia	750.00
74	Chiles, Lee, Arcadia	1,370.00
75	Franks, Evans, Arcadia	610.00
77	Grimes, G. A., Arcadia	315.00
78	Orem, Mrs. A. D., Arcadia	616.00
79	Smith, C. L., Algoa	300.00
80	Cox, J. B., Arcadia	1,050.00
81	Johns, C. E., Arcadia	450.00
82	Lock, A. W., Arcadia	764.00
83	Albright, Mrs. E. H., Arcadia	1,000.00
84	Lilley, Mrs. B. F., Algoa	210.00
85	Brittnacher, John, League City	1,079.00
86	Bauscus, F. A., Arcadia	376.00
87	Brittnacher, Joe, League City	500.00
88	Brockman, W. H. (Adm'r), Alta Loma	1,500.00
89	Brom, Gus, Alvin	180.00
90	Schmidt, Geo., Alta Loma	480.00
92	Burns, W. D., Alta Loma	1,560.00
93	Brittnacher, Mrs. Jake, League City	930.00
94	Gigstad, H., Pasadena	375.00
96	Schuld, A. E., Arcadia	575.00
97	Molk, F., South Houston	2,784.00

Claim No.	Name.	Amount.
98	Parks, W. S., Pasadena	640.00
99	Blakesley, W. N., Pasadena	950.00
101	Aaberg, J. K., Arcadia	1,325.00
102	Hill, Mrs. M. T., Arcadia	600.00
104	Tamberello, Joe, Alta Loma	600.00
105	Pistona, Joe, Alta Loma	360.00
106	Raitano, John, Alta Loma	1,260.00
108	Thomson, J. Q., Alvin	250.00
109	Saunders, Dr. J. S., Arcadia	90.00
110	Wiegand, Mrs. Nina, Dickinson	2,140.00
111	Albert, Auck, Algoa	550.00
112	Hooper, L. O., Algoa	90.00
113	Hanna, Mrs. Chas., Algoa	120.00
114	Sanner, R. T., Arcadia	295.00
115	Palmero, V. A., Arcadia	400.00
116	Mailleux, Geo. F., Arcadia	180.00
117	Jones, J. S., Algoa	90.00
118	Baty, Mrs. W. H., Arcadia	1,600.00
119	Rymal, G. M., Sr., Algoa	210.00
120	Hervey, H. P., Jr., Arcadia	163.00
121	Hodges, W. J., Arcadia	510.00
122	Neuman, G. L., Dickinson	75.00
123	McGee, J. T., Algoa	450.00
124	Lock, A. A., Arcadia	1,320.00
125	Kemmerling, Mrs. T. J., Hitchcock	360.00
126	Dues Brothers, Dickinson	815.00
127	Pollinard, R. E., Arcadia	150.00
128	Riggio, Joe, Alta Loma	240.00
129	Ginn, J. J., Algoa	180.00
130	Garrett, Mrs. L. B., Algoa	180.00
131	Franks, J. F., Arcadia	90.00
132	Beine, Peter, Arcadia	87.00
133	Glazener, O. B., South Houston	234.00
134	Senger, Frank, Dickinson	180.00
135	McClain, Mrs. Mary, Harrisburg	1,500.00
136	Evans, C. H., Arcadia	60.00
137	Shannon, O. J., Arcadia (hauling claim)	578.00
138	Gammage, F. S., Geona	1,950.00
139	Stroughan, Mrs. M. M., South Houston	270.00
140	Bond, Mrs. V. E., South Houston	270.00
141	Tacquard, Arthur, Alta Loma	450.00
142	Ford, R. G., South Houston	150.00
143	Denham, Mrs. J., South Houston	165.00
144	Gatton, H. C., South Houston	90.00
145	Dodd, J. E., South Houston	90.00
146	Anderson, J. L., South Houston	360.00
147	Bell, R. W., South Houston	90.00
148	Keizer, Mrs. L. M., South Houston	90.00
150	Grothgar, Mrs. Fred, Alta Loma	785.00
151	Larsen, Olex, Alta Loma	265.00
152	Birrell, Alex, La Porte	1,050.00
153	West, R. M., Arcadia	900.00
154	Dean, Mrs. A. W., Arcadia	175.00
155	Hollan, H. H. (1924), South Houston	960.00
156	Baty, W. A., Arcadia	240.00
157	Van Natter, C. H., South Houston	180.00
158	Cedillo, C., South Houston	108.00
159	Farquhar, S. E., Genoa	300.00
160	Anthony, Stanley, Genoa	300.00
161	Franke, B. L., Genoa	210.00
162	Jones, Arthur, Genoa	90.00

Claim No.	Name.	Amount.
163	Dudley, W. H., South Houston	90.00
164	Tullis, J. B., Genoa	300.00
165	Preece, Arthur, South Houston	60.00
166	Florida, T. H., South Houston	90.00
167	Kennedy, S. W., South Houston	90.00
168	McGowen, M. P., Genoa	120.00
169	Brussard, W. M., South Houston	90.00
170	Murray, Mrs. Jessie, South Houston	75.00
171	Tullis, H. J., Genoa	180.00
172	Gammage, F. S. (1924), Genoa	840.00
173	Boehm, H. W., Genoa	120.00
174	Jones, Mrs. Stella, Genoa	90.00
175	Dibbern, Mrs. Sophia, South Houston	90.00
176	Schlientes, Mrs. J., South Houston	270.00
177	Knight, G. O., Alvin	900.00
178	McWhorter, Howard, South Houston	90.00
179	Crawford, C. D., Genoa	90.00
180	McLawchlin, C. H., Genoa	60.00
181	Alden, J. M., Genoa	120.00
182	Hall, E. E., Genoa	240.00
183	McGower, Mrs. Ida, Genoa	420.00
184	Wingren, H. T., Genoa	180.00
185	McLendon, M. D., Genoa	5,900.00
186	Vawter, C. E., Genoa	240.00
187	Tambrello, Jack, Alta Loma	900.00
188	Shop, M., Genoa	1,080.00
190	Allan, Chas. N., Genoa	180.00
191	Foster, W. C., Genoa	360.00
193	Davis, W. C., Genoa	108.00
194	Wall, J. E., Genoa	180.00
195	Burnett, G. P., Genoa	240.00
196	Lambert, E. E., Genoa	200.00
197	Crenshaw, E. Q., Genoa	450.00

Total Amount, claim loss .....\$121,915.00

In the event that this total sum of money appropriated is not used within a period of two (2) years, all moneys remaining in said fund shall revert to the General Fund.

Sec. 2. The fact that these claims have been approved by the Claims Committee of former Legislatures and remain unpaid, and because the destruction occasioned by the quarantine resulted in total destruction of the property of a good many people, creates an emergency and an imperative public necessity that the constitutional rule requiring the reading of bills by each house on three several days be, and the rule is, hereby suspended and this law be in effect from and after its passage, and it is so enacted.

Committee Room.

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 717, A bill to be entitled "An Act to amend Articles 2592 and 2593a, Revised Civil Statutes of Texas, 1925, as amended by Chapter 42, Section 1, General Laws of the Regular Session, Forty-second Legislature, page 63, so as to permit expenditure of a part of the University Available Fund for the salaries of officers, teachers and employees and for general maintenance of the University of Texas and the Agricultural and Mechanical College, same to be in addition to the purposes for which expenditure of said fund has been heretofore authorized, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal and not otherwise.

WOODUL, Vice-Chairman.



By Burns, Daniel. H. B. No. 717.

A BILL  
To Be Entitled

An Act to amend Articles 2592 and 2593a, Revised Civil Statutes of Texas, 1925, as amended by Chapter 42, Section 1, General Laws of the Regular Session, Forty-second Legislature, page 63, so as to permit expenditure of a part of the University Available Fund for the salaries of officers, teachers and employees and for general maintenance of the University of Texas and the Agricultural and Mechanical College, same to be in addition to the purposes for which expenditure of said fund has been heretofore authorized, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 2592, Revised Civil Statutes of Texas, 1925, as amended by Chapter 42, Section 1, General Laws of the Regular Session of the Forty-second Legislature, be so amended as to read hereafter as follows:

"Article 2592. The Board of Regents of the University of Texas and the Board of Directors of the Agricultural and Mechanical College of Texas shall, with the approval of the Legislature, expend the Available University Fund for the salaries of officers, teachers and employees and for general maintenance of their respective institutions, for the construction of buildings on the campuses of their respective institutions and for the extension and improvement of their campuses and for the equipment of buildings thereon in the proportions and amounts hereinafter indicated; and to pay interest and principal sufficient to retire any obligations which may be incurred by virtue of any pledges made by the respective institutions as herein provided; and the Board of Regents of the University of Texas shall expend of such Available University Fund so much thereof as may be appropriated by the Legislature for the administration of the University Lands and of the University Permanent Fund, such expenses to be apportioned between the two institutions in proportion to their receipts of Available University Funds under the terms of this Act.

For the years beginning September 1, 1931, September 1, 1932, September 1, 1933, the sum of two hundred thousand dollars (\$200,000.00) net shall accrue for each of said years of said Available University Fund to the Agricultural and Mechanical College of Texas, and shall be expended by the Board of Directors of that institution for said Agricultural and Mechanical College purposes, and the Board of Regents of the University of Texas shall expend the balance of said Available Fund for said University of Texas purposes.

"Beginning September 1, 1934, the Board of Directors of the Agricultural and Mechanical College of Texas shall so expend one-third of all the Available University Fund received from the Permanent University Fund arising from the one million (1,000,000) acres of land appropriated by the Constitution of 1876 and the land appropriated by the Act of 1883, except income from grazing leases on University lands (less its proportion of expenses of administration and excluding any expenses of administration from grazing leases), and the Board of Regents of the University of Texas shall so expend the balance of said Available Fund, including all the income from grazing leases on University lands (less its proportion of expenses of administration).

"The Board of Directors of the Agricultural and Mechanical College of Texas shall have the right to pledge that part of the Available University Fund hereby placed at its command, and the Board of Regents of the University of Texas shall have the right to pledge that part of the Available University Fund placed at its command for not exceeding fifteen (15) years to make the said funds immediately available. Any contract for expenditures of said interests and income for any purpose other than those named shall be void. No surface lease of said lands shall be made for a period of more than ten (10) years."

Sec. 2. That Article 2593a, Revised Civil Statutes of 1925, (same being Section 2 of Chapter 175, General Laws, Regular Session of the Thirty-ninth Legislature) be so amended as to hereafter read as follows:

"Article 2593a. The proceeds arising from activities which affect lands belonging to the public free school fund or the permanent fund of the several asylums, shall be credited to the permanent funds of said respective institutions. All proceeds paid or collected from activities under this law affecting the lands belonging to the permanent fund of the University of Texas shall be credited by the State Treasurer to the permanent fund or to the Available Fund of such institution, as is provided for by the Constitution and laws. The Available Fund of the University of Texas shall be expended for the purposes for which created in the Constitution and under the provisions established by law and no part of the permanent fund of the University of Texas shall ever be expended for any purpose."

Sec. 3. The fact that the costs of the support and maintenance of the University of Texas and the Agricultural and Mechanical College are now payable only from the General Revenue Fund, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room.

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 249, A bill to be entitled "An Act to amend Article 1083 of the Penal Code of the State of Texas of 1925, so as to include milk bottle cases, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal only.

SMALL, Chairman.

By Renfro.

H. B. No. 249.

A BILL

To Be Entitled

An Act to amend Article 1063 of the Penal Code of the State of Texas of 1925, so as to include milk bottle cases, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1063 of the Penal Code of the State of Texas of 1925, be and the same is hereby amended so as to hereafter read as follows:

"Article 1063. Filling or Not Returning Container. Whoever shall, other than the lawful owner, for any purpose whatever, fill with milk, cream, butter or ice cream any milk can, milk bottle, milk bottle case, milk jar, butter box, ice cream can or ice cream tub or mutilate or destroy without the consent of the owner of the same, or wilfully refuse to return or deliver to such owner, upon demand, any such milk can, milk bottle, milk bottle case, milk jar, butter box, ice cream can, or ice cream tub branded or stamped with the name or trade-mark of such owner, or bearing any private mark in common use by such owner, or from which such brand or stamp or private mark, or marks have been removed, cut off or defaced, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00)."

Sec. 2. The fact that there is now no law in this State prohibiting the use of milk bottle cases belonging to others than those using them, and no law in this State prohibiting the defacing of the brands and stamps and private marks on the same, and the fact that the existence of an economic depression causes a shortage in milk bottle cases, create an emergency and an imperative public necessity demanding that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this Act take effect and be in force from and after its final passage, and it is so enacted.

Committee Room.

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 251, A bill to be entitled "An Act to amend Article 1065 of the Penal Code of the State of Texas of 1925 so as to include milk bottle cases, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the

recommendation that it do pass, and be printed in the Journal only.

SMALL, Chairman.

By Renfro. H. B. No. 251.

#### A BILL

##### To Be Entitled

An Act to amend Article 1065 of the Penal Code of the State of Texas of 1925 so as to include milk bottle cases, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1065 of the Penal Code of the State of Texas of 1925 be and the same is hereby amended so as to hereafter read as follows:

"Article 1065. Ownership of Milk Containers, Etc. Any person, firm or corporation, or joint stock association owning or using milk cans, milk bottles, milk bottle cases, milk jars, butter boxes, ice cream cans, or ice cream tubs in his, her or their name or names, or private mark or marks in common use branded or stamped or placed on the same shall be considered the owner thereof."

Sec. 2. The fact that there is now no law in this State conforming with the above amendment, and the fact that the existence of an economic depression has caused a shortage in milk bottle cases, create an emergency and an imperative public necessity demanding that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this Act take effect and be in force from and after its final passage, and it is so enacted.

Committee Room,

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 250, A bill to be entitled "An Act to amend Article 1064 of the Penal Code of the State of Texas of 1925 so as to include milk bottle cases, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal only.

SMALL, Chairman.

By Renfro.

H. B. No. 250.

#### A BILL

##### To Be Entitled

An Act to amend Article 1064 of the Penal Code of the State of Texas of 1925 so as to include milk bottle cases, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1064 of the Penal Code of the State of Texas of 1925 be and same is hereby amended so as to hereafter read as follows:

"Article 1064. Injuring Milk Containers, etc. Whoever shall remove, cut off, deface or obliterate the stamp or brand or private mark of any owner of any milk can, milk bottle, milk bottle case, milk jar, butter box, ice cream can or ice cream tub, or stamp or place other than brands or stamps or private marks on any such milk bottle, milk jar, milk can, milk bottle case, butter box, ice cream can or ice cream tub, without the written permission of such owner, shall be fined not less than ten dollars (\$10.00) nor more than one hundred (\$100.00) dollars.

Sec. 2. The fact that there is now no law in this State prohibiting the use of milk bottle cases, or prohibiting the removal, cutting off, defacing or obliterating the stamp or brand or private mark of any owner of any milk bottle case belonging to others than those using them, and no law in this State prohibiting the defacing of brands and stamps and private marks on the same, and the fact that the existence of an economic depression causes a shortage in milk bottle cases creates an emergency and an imperative public necessity demanding that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this Act take effect and be in force from and after its final passage, and it is so enacted.

Committee Room,

Austin, Texas, May 29, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 958, A bill to be entitled

"An Act authorizing any governmental agency and/or municipality of the State of Texas heretofore authorized to borrow money from the Reconstruction Finance Corporation under the Acts of the Forty-third Legislature and prior Acts to also borrow money in accordance with the provisions of the several Acts of the Forty-third Legislature and prior Acts from any other Federal agency now or to be hereafter created, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal only.

WOODUL, Vice-Chairman.

By Hughes, et al. H. B. No. 958.

#### A BILL

##### To Be Entitled

An Act authorizing any governmental agency and/or municipality of the State of Texas heretofore authorized to borrow money from the Reconstruction Finance Corporation under Acts of the Forty-third Legislature and prior Acts to also borrow money in accordance with the provisions of the several Acts of the Forty-third Legislature and prior Acts from any other Federal Agency now or to be hereafter created, and declaring an emergency.

Whereas, Several Acts of the Forty-third Legislature have been passed to permit borrowing from the Reconstruction Finance Corporation; and

Whereas, Congress is about to transfer the duties and powers of the Reconstruction Finance Corporation to another Federal Agency, and thereafter no more funds will be lent by the Reconstruction Finance Corporation to governmental agencies and/or municipalities; now, therefore,

Be it enacted by the Legislature of the State of Texas:

Section 1. Any governmental agency and/or municipality of the State of Texas, heretofore authorized to borrow money from the Reconstruction Finance Corporation under Acts of the Forty-third Legislature and prior Acts, is also authorized to borrow money in accordance with the provisions of the several Acts of

the Forty-third Legislature and prior Acts from any other Federal Agency now or to be hereafter created.

Sec. 2. The fact that several Acts of the Forty-third Legislature have been passed to permit borrowing from the Reconstruction Finance Corporation and the duties and powers of the Reconstruction Finance Corporation are being transferred to other Federal Agencies, and that funds will not be lent by the Reconstruction Finance Corporation to the governmental agencies and/or municipalities, create an emergency and an imperative public necessity that the constitutional rule, requiring all bills to be read on three several days in each House, be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after the date of its passage, and it is so enacted.

#### SEVENTY-FIFTH DAY.

(Continued.)

Senate Chamber,  
Austin, Texas,  
May 30, 1933.

The Senate met at 9:30 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

#### Senate Simple Resolution No. 124.

Senator Russek sent up the following resolution:

Whereas, Marvin Fertsch and Stanley Fertsch, Mrs. Lucille Fertsch and Evelyn Tinn, students of the Hallettsville High School are visiting in the City of Austin, and

Whereas, These young people are concerned in the proceedings of the Senate. Therefore be it

Resolved, That they be extended the courtesies of the Senate floor during their stay in the city.

RUSSEK.

Read and adopted.

#### Communication Ordered Printed.

Senator Collie sent up the following communication which was ordered printed in the Journal:

Austin, Texas, May 30, 1933.

To the Senate of Texas:

We, the Pages of the Senate of the Forty-third Legislature, wish to express our deep and sincere apprecia-